A TREATISE

ON THE

COURT OF REFEREES IN PARLIAMENT

CONTAINING CHAPTERS ON

THE PRACTICE AND JURISDICTION OF THE COURT,

ON

THE LOCUS STANDI OF PETITIONERS IN THE HOUSE OF COMMONS,

AND

REPORTS OF THE CASES DECIDED IN THAT COURT DURING LAST SESSION,

REPRINTED BY PERMISSION (WITH ADDITIONS) FROM "THE LAW TIMES."

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TOGETHER WITH A CHAPTER ON

ENGINEERING AND ESTIMATES,

AND A

DIGEST OF THE REPORTS MADE BY THE REFEREES TO PARLIAMENT.

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PREFACE.

THE Author, for private reference, had analyzed and compared the Decisions of the Referees during last Session. He was advised that such an analysis, with additions, a Report of Cases, and a Digest of the Referees' Reports, might be acceptable to the profession. The object of this work has been, so far as practicable, to reduce to a system, the Referees' Decisions and Reports of last Session. For this purpose, all cases of importance have been considered. The *Law Times'* Reports of Decisions, which are the only authorized ones existing, being taken as the standard. These will be found reprinted by the kind permission of E. W. Cox, Esq., in the Appendix, and are referred to under the abbreviation of "R." The Referees' Reports have been digested as far as they seemed material to the purpose, and will be also found in the Appendix—quoted under the abbreviation of "D."

The standing orders, "S. O." referred to, are those of the year 1866.

By the kindness of some of the leading Parliamentary Counsel and Agents, most of the important cases have been verified by reference to the short-hand writers' notes.

TEMPLE,

February, 1866.

INTRODUCTION.

THE business before the Committees on Private Bills having of late years very greatly increased, and the decisions on points of practice and other questions being uncertain, and in some instances absolutely contradictory, it was thought advisable, by the House of Commons, at the beginning of last Session, to appoint a special tribunal, now called the Court of Referees, whose province should be to hold an inquiry preliminary to the hearing in Special Committee, into all questions of *locus standi* of petitioners, engineering details, efficiency of the proposed works, and sufficiency of proposed estimates, on all of which points, their decision, unless the House otherwise decide, is final. The object in this treatise has been to examine, classify and digest these decisions. They will be considered in the following order :—

I. Questions of Practice and Jurisdiction.

II. Of *Locus Standi.*

III. Of Engineering Details and Sufficiency of Estimates.

The reports furnished by the *Law Times* during last Session, will be found at the end of this volume, arranged as nearly as possible under the above heads; the other cases referred to including the Reports of the Referees will also be found in the Appendix.

It is impossible to foresee what new standing orders or rules it may please the House of Commons and the Chairman of Ways and Means to frame, but most probably in deference to the Report of the Committee which considered this question at the end of last Session, various modifications will be introduced.* This Committee has arrived at the conclusion, after hearing some of the most eminent authorities, that on the whole, the Court of Referees has saved the time of Members of the House, and possibly of the public, and that questions of *locus standi*, and engineering, have been better sifted there than they could have been in the hands of a Committee selected by chance; but whether there has been any saving of expense seems extremely problematical. The Committee very naturally admit the objection which exists to a double inquiry, a system which is contrary to all the accepted rules of jurisprudence. Indeed it cannot be concealed that there is a great anomaly in withdrawing a case from the notice of a Court which has been occupied with it perhaps many hours, and which with but little more labour would be ripe for a general decision, for the purpose of placing it before another Tribunal, probably not so competent to form a correct judgment as the Court from which it has been withdrawn. If indeed the committees were composed of gentlemen as well able to deal with the technical and complicated questions which come before them, as those who last Session formed the Court of Referees, the matter would be simple, but that cannot be hoped for; and as the general impression appears to be against a fixed tribunal, it seems probable that the present state of things will at any rate for some time continue.

* Note.—Since going to press, the New Rules have been issued, and will be found as altered and amended at the end of the first chapter.

CHAPTER I.

PRACTICE AND JURISDICTION OF THE COURT.

THE constitution and jurisdiction of the Court of Referees are provided for by the several Standing Orders which are briefly enumerated hereafter.

It must however be remembered, that although a select committee on a bill may be taken to represent the irresponsible power of the house, to deal with each case according to its peculiar circumstances, yet the Court of Referees from its mixed character cannot be said to be in this position, as many of its members are not members of the House of Commons. Its powers, therefore, as it seems to me, are limited to the authority given to it by the several standing orders agreed to last Session. The power of framing rules for its own guidance, and of those who practice before it has not been accorded to members of the Court, this duty having been delegated by parliament to the Chairman of Ways and Means. It will be seen on perusal of the rules as framed and amended, that there is no allusion as to the reception and rejection of evidence. It must therefore be presumed, that the same rules of practice as to evidence which obtain in the superior Courts, will govern this Court in the reception of testimony.

Constitution of Court.

Standing Order 91, provides for the constitution of one or more Courts of Referees. The members of these Courts are to consist of the Chairman of Ways and Means, and three or more persons to be appointed by Mr. Speaker. Such persons, however, need not be Members of the House of Commons, but any one specially adapted for such business. No Member of the House of Commons may receive a salary. The Committee above alluded to has however recommended, that for the future all the Referees should receive a suitable remuneration in consideration of the great labour involved in transacting the business of the Court, and of the time they must devote to its sittings.

Matters to be Inquired into by Court.

The Court has power to inquire into the following matters as to which petititoners against a bill pray to be heard in opposition, S. O. 93.

In Bills for Construction of Works.

I. The engineering details of the undertaking.
The efficiency of the works for the proposed object.
The sufficiency of the estimate for executing the same.

In Waterwork Bills.

II. The nature and amount of existing and proposed source of supply.
The pressure and proposed mode of service.
The provisions as to storage resevoirs, and the quality of water.

In Gas Bills.

III. The quality of the gas, the existing supply and price.
The pressure, the cost of production.
The mode of testing the purity and illuminating power of gas, and the maximum price to be charged.

Very considerable doubt has arisen as to whether the Referees have power to inquire into the engineering in gas and water bills, especially the former, indeed one of the Referees expressed a strong opinion that they were precluded from so doing by the words to the standing orders. It may be urged that pressure is strictly a question of engineering; but engineering details are confined to bills of the second class, and gas belongs to the first.

The Chairman of Ways and Means is directed to frame rules for the practice and procedure of the Court; these will be found at the end of this chapter. The select Committee which sat to consider whether the Court had proved beneficial or not, have reported in favour of some further code being drawn up, and also some alteration in the standing orders. In compliance with that suggestion, the new Rules of February, 1866, have been issued, somewhat altered and amended.

All questions as to the rights of petitioners to be heard on their petitions are to be decided by the Referees; and if no objection be taken before them, the Committee on the bill will presume that the promoters have waived any such which may exist. Havant, Hambledon, and Droxford Railway Bill (R. p. 1). Should however

any question of the above nature arise incidentally, when the bill has been referred to the Select Committee, such Committee shall have power to dispose of such question without further reference to the Court. (S. O. 90).

The following are the sole grounds which the standing orders direct shall entitle petitioners against a bill to be heard.

Grounds on which Petitioners are to be heard.

When the petitioners allege that the proposed scheme is in competition with an existing undertaking in which they are interested. Competing schemes, however, have not a *locus standi* of right—the power of admitting or neglecting them is left to the discretion of the Court. (S. O. 130).

When a bill is promoted by an incorporated company, a shareholder in the same will be entitled to be heard, if his interests, as affected by the bill, are distinct from the interests of the company, but not otherwise. (S. O. 131).

When a bill for constructing a railway contains provisions for taking and using any part of the lands, railways, stations, or accommodations of another company, or for running engines or carriages upon or across the same, or for granting other facilities, such company shall be entitled to be heard against the preamble and clauses of such bill. (S. O. 132).

When the petitioners are the municipal or other authority, having the local management of the metropolis, or of any other town, or the inhabitants of any town or district alleged to be injuriously affected, the Court has power to admit them to be heard against any bill alleged to interfere with their interests. (S. O. 133).

These are the only persons or bodies whom the standing orders define as entitled to be heard on their petition against a bill. When, however, the question of *locus standi* is hereafter discussed, it will be seen that the Court has taken an enlarged view of the discretion vested in it, and has in some instances admitted owners, lessees, traders, freighters, and others to a general *locus standi*, although their cases could not be said to come within the scope of the standing orders. Some of these petitioners were granted a hearing by what is termed the "Custom of Parliament," an elastic discretionary power as yet undefined.

See North Staffordshire Railway Bill (R. p. 61), Roach River Fishery Bill (R. p. 110), London and North Western Railway (New Works), England and Scotland Bill (R. p. 63), &c., &c.

Merits of Bill may be decided by Court.

With consent of parties for and against a bill, the Court has power to inquire into the subject, matter, and merits of the proposed bill, and after having so examined, should their report be favourable, the same will—unless the House otherwise order—be treated as an unopposed bill. (S. O. 94).

Court to report to House of Commons.

The Referees are directed to report the result of their inquiries on any matter before them to the House, with their reasons, and their report is then to be referred to the Select Committee on the bill, who are not to take any further evidence on any subject which has been inquired into by the referees. (S. O. 95). If the Court report that the engineering is inefficient for the proposed object, or the estimate for the proposed works insufficient, the bill cannot be proceeded with, unless the House shall consider it expedient to order otherwise. (S. O. 96).

Should any question arise in the course of the inquiry before the Select Committee on any bill which the committee may deem suitable to be decided by the Court of Referees, such question may be formally referred by the committee in writing to the Court, and their decision must then be returned, certified upon the question submitted to it.

Allegations in Petitions must be specific.

In some cases, the Referees have refused to hear petitioners on somewhat technical objections. They have decided not to hear parties on any questions which are not distinctly and specifically raised by the allegations in the petition. Lancashire, Yorkshire, Midland, and Leeds Junction Bill (R. p. 3). In this case, the petition was not prepared originally for the Court, but was referred to them by the Select Committee on the bill. The prayer in the petition on which petitioners relied, stated, that "the works proposed by their line (they being a competing line with the promoters) were better defined (*sic*) than those of the promoters;" the question was raised whether the word was not a clerical error for designed, but in the original petition produced it was proved to be defined. The Referees decided that the engineering details had not been sufficiently characterized in the petition and refused to hear the petitioners.

It appears that the absolute words of the standing orders must be used in cases where the local authorities or inhabitants of a town who consider themselves injured, petition against a proposed bill. A somewhat hard case was that of the Improvement Com-

missioners under their common seal, and the inhabitants of the town of Abergavenny, who petitioned against a proposed railway, on the grounds that it would be inconvenient for traffic between their town and the adjoining town of Monmouth; that it would be inconvenient for traffic with certain extensive iron works, adjacent; and that certain turnpike roads by which the town was approached would be seriously interfered with. Yet, under these circumstances, the Referees decided—without calling on the promoters—that the petitioners had no *locus standi*, on the ground that they had not specifically alleged in their petition that they were, according to the words of the standing orders, injuriously affected, or according to the diction of one of the Hon. Referees, "physically injured or affected." Vale of Crickhowel Railway Eastern Extension Bill (R. p. 108); on this point see also Severn Junction Railway (R. p. 95).

The Court has determined that the following clause in a petition does not sufficiently raise an issue as to engineering details to enable them to hear the petitioners. "That the proposed railways are ill contrived for the purposes they profess to effect; and your petitioners complain of the said junctions with their railways, because they are ill selected, and will interfere with the safe and efficient traffic of the said railways." The wording of this clause seems to raise a clear issue as to the engineering merits of the proposed line, but in this as in some other cases, the Court have deemed it right to adhere to the strict letter of the standing order. Barnet, Hendon, Hampstead, and London Railway Bill (R. p. 117).

One Counsel only to be heard.

The Court has uniformly declined to allow more than one counsel to appear before them in each case, and has adhered to this decision even where the whole bill was heard before them. Forth Bridge Bill (R. p. 9).

Right to begin.

Generally, the petitioners have the right to begin; this practice as a rule saves time, as the petitioners can attack the plans and estimates of their opponents where they please, but in some cases they cannot possibly say what prices the hostile engineers may put upon certain works, and in such cases it may be advisable to require the promoters to give some account of their estimates.

The Court has decided that they will hear cases in the order in which the petitions have been deposited in the private

bill office, subject to arrangements to suit the convenience of counsel, Bute Docks, Cardiff, No. 1 Bill (R. p. 13). In this instance they have not followed the usual course adopted by the Superior Courts, and it is possible that this decision may lead to inconvenience, and ultimately be revised.

Where a navigable river is crossed by a viaduct, and the petitioners alleged an insufficiency of estimate, the Court decided that the promoters must begin, on the ground that the petitioners could not obtain sufficient information from the deposited plans to form a correct estimate of the cost of the proposed works; but the Court stated that their decision was exceptional, South Wales and Great Western direct Railway Bill (R. p. 8).

The precedent established, was however followed very shortly after in a similar instance, where the promoters proposed to cross the Forth by a viaduct, two miles in length, the only distinction between the cases being that in the former, the promoters did not appear to resist the application; in the Forth cases they appeared in opposition. Forth Bridge Bill (R. p. 9). When, however, the petitioners applied for the promoters to begin, on the ground of the extraordinary difficulties of the undertaking, the scheme being to drive a tunnel 4278 yards under the river Mersey below high water mark, with only 15 feet space from the rails to the crown of the tunnel, and the petitioners alleged that the plans gave them no satisfactory information how the works were to be constructed; the Court refused to entertain their application, and to depart from the general rule of calling on the petitioners to begin, Birkenhead and Liverpool Railway Bill (R. p. 12). This case is subsequent to and to some extent overules South Wales and Great Western, and Forth Bridge cases.

Non-appearance of Petitioner.

Should a petitioner, whose *locus standi* has been objected to, not appear in support of his *locus*, the Referees will decide against him, and endorse his petition to that effect. Bolton Improvements Bill (R. p. 3).

Allegations in Petition taken as true.

As a general rule the allegations in each petition are taken to be admitted as true. In a case very elaborately discussed the petitioners alleged that the promoters of a certain railway extension sought powers to run over and use the junctions and junction points, connecting a third railway with the railway of the petitioners. The promoters, *inter alia*, gave notice of objections to

the *locus standi* of petitioners, on the grounds that the bill did not propose to take or interfere with any of their property. When the case came on for argument, the promoters insisted that the petitioners should give some evidence of their title to the junction points in question. The Court held that they would require *prima facie* evidence of the title of petitioners; and also, that they would not separate this objection from the others, but would hear the whole case together. With great deference, this decision seems to be at variance with the established principles of law. The promoters come to the Court in a similar position to the plaintiff in ejectment, and the rule in ejectment is, that the plaintiff must show a better title than the defendant. Here, however, this rule was reversed, and the *quasi* defendant in ejectment was called on to establish his title, before the plaintiff entered upon his case.

If the principle were carried out in its integrity, it would be necessary for every landowner petitioning against a bill to come prepared with evidence of his title before he could be heard, Manchester, Sheffield and Lincolnshire Railway Extension Bill (R. p. 65).

Service of Notice of Objections.

The Court will require the strictest proof of service of notice of objections to the *locus standi* of petitioners. Where the promoters of a bill proved that they had not only posted a letter to the petitioner, containing notice of their objections to the *locus standi* of his petition, but had also sent another to the parliamentary agent who had deposited the petition; the Referees decided the due service of notice was not proved. (County Antrim and Belfast Boro' Railway Bill (R. p. 10). The proof tendered in this case would have been sufficient in the case of an objection by one voter to the name of another being retained on the register; and it is difficult to see, except proof of personal service, which in many cases must be very inconvenient, what further evidence could be required.

Amendments in Bill.

It was up to the case of the St. Clement Danes' Improvement Bill, the uniform practice of the Court to refuse to take into consideration amendments made in a bill during the hearing of a petition; and when it was proposed to insert clauses, to insist that the they could only deal with the bill as presented to them, Dee and Mersey Junction Bill (R. p 88), the Court in that case stated, "we can only deal with the bill as it comes before us." In Bute Docks

Cardiff Bill, No. I. (R. p. 18). It was laid down by the Court that they had no power to insert clauses. The same principle was admitted by the Court in the Cambrian Railways Additional Powers Bill (R. p. 20); and Severn Junction Railway (R. p. 95); and Connah's Quay Railway and Dock Bills (R. p. 93). In the case of the Saint Clement Danes' Improvement Bill (D. p. 3), which was the last case argued before the Court, a sort of compromise was effected, which makes it difficult to understand, whether they intend to adhere to their former decisions on this point or not. In this case they entered into the question as to whether or not the bill before them was to be amended by the insertion of a certain clause required by the petitioners, a subject which in the cases above cited they have distinctly refused to entertain. The Court eventually agreed to disallow the *locus standi* of petitioners on a personal guarantee being given by the counsel for the promoters, that the clause in question should be inserted.

Petitioners who have appeared on Clauses in House of Lords.

It has generally been considered, that petitioners who appear on clauses in the House of Lords, are thereby debarred from appearing against the preamble of the bill when it comes on in the Commons. By attempting to insert fresh clauses or modify existing ones, they are taken to assent to the preamble of the bill. The Court affirmed this principle in the Roach River Fishery Bill (R. p. 110) when they refused to hear those of the petitioners who had appeared on clauses before a committee of the House of Lords.

Jurisdiction, S.O. 93.

A Bill proposed to use a certain weir and feeder, and to legalize them in their present condition. A dock had been previously constructed without Parliamentary sanction, and was supplied with water by this feeder. This feeder and the weir forming it, had been constructed under the powers of an Act of Parliament, but not in accordance with, nor in the manner prescribed by that Act. The promoters also asked for powers to furnish the ships in dock with water from the feeder. The Court after consultation held, that this bill came within the scope of S. O. 93, and that consequently they had power to inquire into the quality &c., of the water, Bute Dock, Cardiff, No. 2 Bill (R. p. 16).

Postponement of consideration of *Locus Standi*.

If the examiners of petitions have reported that the promoters of a bill, who are also petitioners againt another scheme, have not complied with the standing orders, they will not be entitled to be heard while their case is under the consideration of the Select

Committee on standing orders, as the fact of granting them a *locus standi* would be to anticipate the decision of that committee, London and South Western Railway (New Lines in Surrey) Bill (R. p. 114).

Where also the Board of Trade had considered it necessary to require the promoters of a bill to provide additional works, and they appeared as petitioners against another bill, and it appeared that they had not complied with the suggestions of the Board of Trade; the Court declined to consider the question of their *locus standi* until the recommendations of the Board of Trade had been carried out. Monmouth, Forest of Dean, and Standish Junction Railway Bill (R. p. 11).

Two Bills having reference to same undertaking.

In the Bute Docks, Cardiff, No. 1 and 2 Bills (R. p. 14), a petitioner against one bill in maintaining his right to be heard proposed to refer to the other. Both bills had reference to the same undertaking, and it was provided that should both become law, then certain provisions of the one should be construed to apply to both. The Court decided that the petitioner had a right to refer to the second bill.

Limits of deviation.

In most cases the Court has considered it had no power to hear petitioners where their property was not situate within the limits of deviation, and have refused *locus standi* to a City Company when proposed Railway buildings were in such close proximity, as to interfere with certain ancient lights of their hall South Eastern Railway (R.p.78). There are however certain exceptional cases as when danger may be apprehended not only to the petitioners themselves, but also the working of the proposed Railway, by the close proximity of powder mills, where the Court has decided that it had jurisdiction to hear petitioners, although they did not actually come within the scope of the standing order. The *locus* of petitioners in this case was not disputed by the promoters. The grievance complained of was the proximity of the line, and the petitioners urged this to be a point of engineering details. The argument of the pro-promoters was, that it was not competent for the Court to hear petitioners on the question of engineering details, and as no property of theirs was taken, there were no other grounds on which they could be granted a *locus standi*. Caledonian Railway, Balerno and Penicuick Branches (R. p. 120).

Rules for the Practice and Procedure of the Referees on Private Rules, framed by the Chairman of Ways and Means, S. O. 92 to 97 (February 14th, 1866).

The Alterations and New Rules are in Italics.

Applications for hearing before Referees.

1. Parties petitioning against Private Bills, in respect of any of the following matters, and who desire to be heard in opposition by their counsel or agents thereon, viz.—

In the case of bills ~~of the second class,~~ for authorizing the construction of works, the engineering details of the undertaking, the efficiency of the works for the proposed object, and the sufficiency of the estimates for executing the same.

In the case of waterworks bills, the nature and amount of the existing and proposed sources of supply, *the pressure and proposed mode of service*, the quality of the water in each case, and the provisions as to storage reservoirs.

In the case of gas bills, the quality of the gas, existing supply and its price, the amount of pressure, the cost of production, the modes of testing the purity and illuminating power of the gas, *and the proposed maximum price to be charged.*

Shall indorse upon their petitions, previously to depositing the same in the Private Bill Office, a statement of the grounds (being some, one, or more of the grounds specified above) on which they desire to be so heard; but it shall be competent to the Referees, if satisfied that the omission to make such indorsement in any case occurred through inadvertence or unavoidable cause, to admit the petitioners to be heard before them upon such conditions as they may think fit.

Applications for hearing before Referees may be withdrawn.

2. Parties who have indorsed their petitions in manner above mentioned, may at any time withdraw their opposition to a bill, so far as relates to the grounds specified in such indorsement, by depositing a requisition to that effect in the Private Bill Office.

3. The clerk to the Referees shall give not less than two clear days' notice to the clerks in the Private Bill Office, of the day on which the case of each bill is appointed to be taken by the Referees. Notice of hearing to be given through Private Bill Office.

4. The cases shall be heard in such order as the Chairman of Ways and Means shall appoint, and according to a list prepared under his direction, and kept in the office of the clerk to the Referees. Order in which cases shall be taken.

5. When a bill is called on for consideration, the agents for the petitioners against the same shall be required to produce a certificate of appearance from the Private Bill Office, in which shall be stated the names of the petitioners, their counsel and agents. Certificate of appearance to be produced.

6. The sittings of the Referees shall commence at 11 o'clock in the forenoon, or at such other hour as may have been specially fixed by adjournment at a previous sitting. Hours of Meeting of Referees.

7. All questions before the Referees shall be decided by a majority of voices, including the voice of the chairman; and whenever the voices are equal, the chairman shall have a second or casting vote. Mode of Voting by Referees.

8. *The Promoters of any Private Bill who intend to object to the right of Petitioners to be heard against the same, shall give notice of such intention, and of the grounds of their objection, to the Clerk to the Referees, and to the Agents for the Petitioners, within Seven clear days after such Petition has been deposited in the Private Bill Office; but it shall be competent to the Referees to allow such notices to be given, under special circumstances, although the time above limited may have expired.* Notice of Objection to *Locus Standi*.

9. Parties who have given such notice as above, may, at any time withdraw the same, by giving notice of withdrawal in writing to the clerk of the Referees.

10. Not less than one clear day's notice shall be given by the clerk to the Referees to the clerks in the Private Bill Office, of the days on which the objections to the right of petitioners to be heard will be severally taken into consideration by the Referees.

CHAPTER II.

[*LOCUS STANDI.*]

Competition—Amalgamations—User—Municipal Bodies—Traders, Freighters, &c.

It may be doubted whether the standing orders define or limit the powers of the court to grant *locus standi* to petitioners. If they define their powers, then serious objections may be taken to many of their decisions, as exceeding their authority. If on the other hand, they are intended to limit in particular instances a general or sort of common law practice of Parliament, it will not be difficult to find instances where parties whose interests were seriously affected by a bill, have been denied the opportunity of asserting their grievances before a committee.

Practice anterior to formation of Court.

Twenty years ago, when the business before committees induced by the formation of railways and other works first became of any considerable magnitude, it was absolutely necessary for petitioners to show that their interests were directly or specifically affected by a proposed scheme, to enable them to have a *locus standi*. The committee decided on the merits of each case, whether or not the petitioners had a sufficient interest to entitle them to be heard. In this state of procedure, as may well be imagined with no authentic precedents to follow, and with each committee forming its own judgment, without considering themselves bound to what transpired in an adjoining court, the decisions were various and contradictory. It was held generally at that period, that competition, the most legitimate of all present oppositions, did not confer a *locus standi*. When a railway company desired to oppose a rival scheme, the custom, which was in fact an evasion, was to enlist the name of some landowner whose property was taken by the proposed line, and under his shelter to find the funds for opposing the rival scheme. It was not however till 1861, that owners of land required for railways, &c., were formally admitted to a *locus standi* (Resolution General Committee, 1861), and to this day there is no standing order which

defines their right to be heard against a proposal to take their property. In 1852, a standing order was agreed to by the House of Commons, by which committees were empowered to allow petitioners to be heard on the ground of competition, but left it generally to their discretion to admit them or not.

When two railway companies have proposed an amalgamation, parties seeking to oppose such amalgamation have been refused or accorded a *locus*, in proportion as their interests seemed to the different committees to be affected by such amalgamation. The measure of such interest was never quite accurately defined, the question depending on the particular bias of each individual committee.

It has also generally been the custom of committees not to hear shareholders, being a minority dissenting from the proposal of a corporate body of which they are members, to promote some particular bill; and by a standing order in 1853, the house distinctly affirmed the principle which had guided the committees, viz.—that shareholders being members of a corporate body promoting a bill, shall not be heard against such bill, unless their interests as affected thereby are distinct from the general interests of such company.

No doubt the Court of Referees have not considered themselves bound to respect the isolated decisions of former committees, but I have thought it convenient merely to indicate briefly as above, what has been the general course pursued with regard to cases of *locus standi* by Select Committees, up to the years 1865. In Mr. May's "Parliamentary Practice," the admirable chapter on this subject fully explains this question, and gives most of the important decisions.

Standing order 19, directs certain notices to be given to all owners, occupiers, &c., whose property is within the limits of deviation; and like notices are to be given to owners, lessees, occupiers, &c., of any works whatever, which require and use the water from any stream, at a distance of twenty miles below the point where it is proposed by any bill to abstract water from such stream (S. O. 23). S. O. 19.

Owners, &c., of property within 300 yards of any proposed new burial-ground, or gas works, are also to receive notice (S. O. 24). The like notices are to be given to the owners or reputed owners, or lessees, for a life or lives, or for a term of twenty years, of any

crown church or corporate property, or any property held in trust for charitable purposes (S. O. 25).

And when by a bill it is proposed to alter any repeal or express statutary provision for the protection of any owner or lessee, or occupier of property, or for the protection or benefit of public trustees or commissioners, corporation or person specially mentioned in such provision (with the exception of the cases which, with the consent of such parties, are required to be proved before the Committee on the bill, S. O. 172). Notice in writing of the bill, and of the intention to alter or repeal such provision, must be served on such owners, lessees, trustees, commissioners, corporation or person (S. O. 26).

Although not provided by any standing order, it may be presumed that a *locus standi* is to be granted to any of the above persons or bodies entitled to notice as above.

It may be fairly assumed, that parties who are prepared to incur the trouble and expense of petitioning Parliament against a bill, have at any rate such an interest in being heard, as should *prima facie* gain them a *locus standi;* and it is contrary to the spirit of our laws, that any person or persons, who conceive that they will suffer injury to their property, should not at any rate be in a position to state their grievances before the tribunal, which has the power of enabling other persons to commit acts, which in the opinion of the petitioners may injuriously affect such property. In some instances, which will be hereafter considered, it is difficult to comprehend the grounds on which a *locus* was refused to certain petitioners, and admitted to others; but it is probable, that a considerable change may take place in the ensuing Session, in consequence of the Act passed with regard to the costs payable by promoters to petitioners in proceedings before Select Committees. By that Act, promoters are liable to pay the costs of the petitioners against any bill whereof the preambles shall have been decided by the Committee to be not proved, or in which any provision has been inserted, or struck out, or altered for the protection of any petitioner; and further, in which the committee unanimously report, that such petitioners have been unreasonably or vexatiously subjected to expense in defending their rights, proposed to be interfered with by such bill. (28 Vic. cap. 27.) If however, on the other hand, the committee shall decide that the preamble of

New Act as to Costs.

the bill is proved, and unanimously report that the promoters have vexatiously been subjected to expense by the petitioners against it, then the promoters shall be entitled to receive from the petitioners such costs as the committee shall think fit.

Exemption of Landowners.

A landowner whose land is proposed to be taken by any bill, and who *bona fide* at his own sole risk and charge opposes a bill, is specially exempted from the payment of costs. A provision which clearly confirms the custom of granting *locus standi* to a landowner, whose property is affected in all cases.

Promoters.

By this Act also, promoters of a bill are defined to be in the case where a bill is not promoted by a company already incorporated, "All persons whose names shall appear in such bill as promoting the same." As this Act imposes a penalty on all vexatious oppositions, and a like penalty where promoters unreasonably refuse to give proper protection to persons whose property or rights are affected, it is probable that a more liberal spirit may animate the Court in granting a *locus* to parties who deem themselves aggrieved, and who are prepared to run the risk of such penalty in asserting their grievances.

COMPETITION.

The standing order on this point is as follows:—

S.O. 130.

"It shall be competent to the Referees on private bills to admit "petitioners to be heard upon their petitions against a private bill, on "the ground of competition, if they shall think fit."

The question, therefore, is left entirely to the discretion of the Court, as to what they consider amounts to competition. I propose briefly to examine the different cases in which they have decided for or against petitioners on this ground.

Locus Standi allowed.

The Court has decided to grant a *locus* to petitioners under the following circumstances:—The London, Chatham and Dover Railway, had a through route from the Metropolis to Sheerness, situate on the banks of the Medway; part of this route was formed by a line leased to them in perpetuity; they petitioned against the scheme of promoters, who proposed to extend their line from London to a point on the other side of the river opposite to Sheerness, and to build a landing place in the river. The distance between the terminus of promoters line and the town, was two miles and a-half,

and there was no proposal for a bridge or other permanent means of crossing the river; the promoters asserted, that their line was a purely local one, and that they had neither the will nor the power to compete with the petitioners. The Court held that the latter had a *locus standi*.

This decision is extremely liberal, and admits parties where the competition is apparently remote, as access to the town in question was virtually barred by a tidal river more than two miles broad. North Kent Railway Bill (R. p. 31).

In the following case also, a *locus standi* was allowed to an existing railway company, which proposed to make a chain of lines from their existing system to the town of Cardiff, and appeared as petitioners against the Llantrissant and Taff Vale Junction Bill, a rival scheme which sought to couple various other railways already in existence, with another line proposed to be constructed by an independent company, and so to run a competing route to Cardiff. Running power was sought in the bill over the whole of these lines, and their course would be for some distance parallel to that of petitioners; as regarded a portion of the scheme, the petitioners had an undoubted *locus standi*, in consequence of its interference with their existing line. The whole system when complete, in the hands of hostile companies, was capable of being formed into a competing line with the proposed railway of petitioners to the town of Cardiff. Llantrissant and Taff Vale Junction Railway Bill (R. p. 24).

The following case also was virtually one of competition, and the Court decided to grant the petitioners, the Penarth Dock Company, *a locus standi* against the bill. Under the powers of certain Acts of Parliament the petitioners had constructed a dock at the mouth of the river Taff, at a short distance from the town of Cardiff, for the purpose of facilitating the shipments of mineral traffic of their district; this dock they had afterwards leased under Parliamentary powers to a railway company, reserving certain reversionary interests. The promoters, who were trustees of the docks of the town of Cardiff, sought powers to construct large additional docks. The petitioners were held to have sufficient interest in the railway company, though they had leased their property to it, to give them a *locus standi* on the ground of competition. Bute Docks, Cardiff, No. 1 Bill (R. p. 29). On the other

hand, see the South Lancashire Railway and Dock Bill (D. p. 6), in which case the Widnes traders were refused a hearing.

Locus Standi disallowed.

The petitioners were not heard in the following cases, on the ground, as far as can be ascertained, that the Court considered the competing interests of the petitioners too remote.

The Ely Valley Railway had been leased to the petitioners, the Great Western Railway Company, for 999 years; and by the Act constituting the Ely Valley Extension Railway, facility clauses were introduced for the proper exchange transmission and protection of the traffic between them and the Ely Valley Railways. The scheme of the promoters was to amalgamate the Ely Valley Extension with a fourth Railway, the Ogmore Valley Railway Company, and to this the petitioners sought to object, on the ground that they were lessees of a railway which had rights granted it by Parliament, over one of the railways proposed to be amalgamated, and as such ought to be heard on the ground of completion. This decision seems to establish the principle, that where two railways have facility clauses for the mutual transaction of traffic, this of itself will not be sufficient to give them a *locus standi*, should either of them be interfered with in a manner which the other may deem prejudicial to its interests. Ogmore Valley and Ely Valley Extension Railway Bill, Petition of Great Western (R. p. 22).

The Cambrian Railway, Aberystwith and Welsh Coast Railway Amalgamation Bill (R. p. 45), was a decision to the like effect, and it may generally be laid down, that the Court will not grant a *locus standi* to a railway which petitions against an amalgamation bill, on the ground that it has granted or enjoys running powers, or other facilities over the lines of railway of either of the companies proposing to amalgamate.

Very nearly the same point is decided in the Havant, Hambledon and Droxford Railway (R. p. 1).

The Court disallowed the *locus standi* of petitioners, who alleged that the promoters of an amalgamation would compete with them under these circumstances. The petitioners' railway leads from the town of Brecon, by a junction with the Swansea Valley Railway, which is in process of formation, to the port of Swansea. They further stated, that when their railway was made, they confidently relied on the Hereford, Hay, and

Brecon Railway Company's line being open and accessible to them.

The promoters, viz.—the Brecon and Merthyr Tydfil Railway, and the Hereford, Hay, and Brecon Railways, sought an amalgamation, which the petitioners asserted would have the effect of diverting traffic from their railway, by a circuitous route to Merthyr, and thence to the port of Swansea, to the detriment of the petitioners' property and the injury of public.

The traffic coming through Merthyr to Swansea, could be transmitted by a line which was acknowledged to be a competing line with the petitioners; and comparing this case with the Llantissant and Taff Vale (*ante*), when the principle was conceded that if a railway has a *locus* against one part of a competing scheme, it has a *locus* against all; it is somewhat difficult to reconcile them, Brecon and Merthyr Tydfil Junction Amalgamation Bill (R. p. 33). The petition of the Mid Wales Railway against the same bill will be found under the head of Amalgamation.

Maintenance of Steamboats by Railway Companies.

A novel case, but which may fairly be classed under the head of competition, is that of the Aberystwith and Welsh Coast Railway Bill, Steamboats (R. p. 98). Petition of the Steamship Owners' Asssociations of London. Parliament has required, that when a railway considers it necessary to its interests to maintain steamboats as essential to develop its traffic, it shall only do so with the sanction of the House. The promoters made an application of this nature, and sought to obtain powers to establish a line of steamers between the coast of Wales and Ireland. The petitioners, a body of shipowners in London, claimed to be heard against the bill, and certainly at first sight it would appear that their interests were a little remote, but as in fact, unless they were heard, the bill would be unopposed, they were admitted to a *locus standi*. The petitioners did not allege that they had vessels plying to any of the ports mentioned in the petition, nor did they mention any specific injury that they would receive, further than that they might be competed with injuriously.

Amalgamation of Railways—User, &c., of Lands, Rails, Stations, &c., of another Company, S. O. 132.

There is no definition in the standing order of the parties who are entitled to be heard against an amalgamation bill; previous to the appointment of the Court, the decisions appear to have been entirely dependent on the particular facts of each case, and the views the committee selected to decide entertained as to the degree the interests of the opposing railways were affected.

Some cases of importance have been decided by the Court on this question, one of them The Brecon and Merthyr Tydfil Junction Bill, under the head of competition has been already alluded to. The standing order, with regard to the admission of railway companies, whose lands, &c., are proposed to be taken, is as follows:—

"Where a railway bill contains provisions for taking or using any S.O. 132.
"part of the lands, railway, stations, or accommodations of another com-
"pany, or for running engines or carriages upon or across the same, or for
"granting other facilities, such company shall be entitled to be heard
"upon their petition, against the preamble and clauses of such bill."

Locus Standi allowed.

In the case of The Brecon and Myrthyr Tydfil Junction, Railway Amalgamation Bill, petition of the Neath and Brecon Railway, it will be remembered that a *locus standi* was refused the petitioners, who alleged that the effect of this amalgamation would be to place it in the power of the lines thus united, to send the traffic coming from the North, through Brecon, to the port of Swansea by a circuitious route, instead of over their direct line to the port of Swansea; they also alleged that they had always confidently expected a mutual interchange of traffic, &c., between their railways and the Hereford and Brecon Railways. The other petition against this bill, was that of the Mid Wales Railway (R. p. 47): the distinction in the position of the latter petitioners being, that the Mid Wales Railway had, under an agreement, entered into between them and the Brecon and Merthyr Tydfil, one of the amalgamating lines, mutual running powers over their respective systems; the intention of such agreement being, as alleged, that the traffic coming from Merthyr Tydfil should be forwarded to the manufacturing districts of the North over the petitioners railway. The Hereford and Brecon Railway, which was another outlet to

the North, had abandoned part of their project, and instead of continuing their line to Brecon, had formed a junction with the petitioners line at or near Glasbury. The effect of amalgamating the Brecon and Merthyr Tydfil and Hereford and Brecon lines, would be to enable them to send their traffic North over the Hereford and Brecon lines, and it would manifestly be their interest to do so; while, at the same time, the running powers of the Brecon and Merthyr Tydfil Railway would enable them to use a portion of the petitioners railway for the very purpose of diverting traffic from it.

The promoters urged, that their running powers over the petitioners railways were so general, that they could, if they choose, make use of the petitioners line in a manner injurious to their interests, without the proposed amalgamation; and that, therefore, it mattered little to the petitioners, whether the amalgamation took place or not. The Court allowed the *locus standi* of petitioners.

There is no very distinct feature which separates this case from that of the petition of the Neath and Brecon Company, with the exception that the latter had no arrangement for running powers over either of the proposed amalgamating lines. Both petitioners apprehended that traffic would be diverted from their lines by means of the amalgamation, and that it would be the direct interest of the amalgamated lines so to divert such traffic. But neither of these petitioners come within the provisions of S. O. 132; nor could the Mid Wales petition be admitted on the ground of competition. There certainly are precedents where running powers are proposed to be taken by a bill, that the line proposed to be so affected should have a *locus standi*. (Resolution of General Committee, 1861); (Garston and Liverpool Railway Bill, 1861); but in this instance, the running powers had been accorded, and the proposal was to use them injuriously to the petitioners. The decision must be classed under the discretionary powers, claimed by the Court, to admit parties whom they think aggrieved.

Locus Standi disallowed.

One of the most remarkable decisions during the session, was in the case of Bill for the Amalgamation of the North British and Edinburgh and Glasgow Railways, against which the Great Northern Railway petitioned. It is placed here under the head of Amalgama-

tion, but the question depended entirely on whether the Great Northern Company could be considered as a competing line, by forming part of the eastern route to the North of Scotland, in opposition to the London and North Western and Caledonian Railways, forming the western route. The lines forming the east and west route to the North of Scotland, had some years before entered into an arrangement, by which the profits derivable from carrying the traffic from the North of Scotland were to be divided equally between them. This agreement will terminate on 1st January, 1870. Three years after that arrangement was made, the North British, then an entirely east coast line, got an extension from Hawick to Carlisle, giving it thereby access to, and partly the command of, the west coast traffic. The Caledonian Line had in a previous session presented a bill for their amalgamation with the Edinburgh and Glasgow Railway; this was rejected, principally on the ground that it would place the power of diverting traffic in the hands of the Caledonian Railway, and prevent wholesome competition; and also because the Edinburgh and Glasgow was considered as part of the east coast route. The Great Northern Railway enjoyed running powers to York, and have since obtained the same over the North Eastern and North British, to Edinburgh, and in a proposed amalgamation between the Caledonian and Scottish Central, they were to have running powers from Larbert Junction to Perth. Larbert Junction is the key to the whole traffic of the North of Scotland. All traffic to and from the North must come through that Junction, except what goes over the Forth ferry.

The position of the North British, independently of the amalgamation, enabled them to send what part of their traffic they pleased by their line to Carlisle *via* Hawick, which gives them a much longer lead; but by the proposed amalgamation, the whole unconsigned traffic coming from the North would be practically in their hands, and it would of course be to their interest to divert it into the channel most profitable to themselves. The promoters argued, that their extension to Hawick had changed the position of affairs since the agreement referred to, and that the Great Northern, being at such a distance, could have no such interest as would enable them to be heard; and in addition, that the amalgamation proposed would in fact place them in no worse condition

than they were at present. The Court decided against the *locus standi* of the petitioners. North British and Edinburgh and Glasgow Railway Companies Bill (R. p. 55.)

. The Court has, without doubt, very great discretionary powers, but the tendency should be to admit petitioners to be heard against a bill, who strongly allege themselves to be aggrieved. It is almost impossible to conceive a stronger case than the one made out by these petitioners. The very same amalgamation had been attempted by the Caledonian, representing the west coast route, who sought thereby to gain command of the traffic, and this amalgamation was, probably with reason, rejected; but when the attempt is made by the North British Railway, having the power from its commanding position to divert the flow of traffic east or west, as it pleases, and when its interests directly are to send it by the west coast route, the Court refuse to hear the line most interested against such diversion.

The argument that the Great Northern are at too great a distance to be affected, is futile, that railway being the last link to the Metropolis in the east coast system, and actually having running powers over the most distant portion, must of course suffer or benefit as the traffic from the north is forwarded or diverted over that system. By the arrangement between the east and west coast systems, the profit was to be divided equally between the two routes, but upon the concluding of that agreement in 1870, the effect of this amalgamation would be to put the North of Scotland traffic entirely in the hands of a company, whose interest would be to divert it in the direction in which they had longest lead.

Petition of single Trader.

A single trader, or firm of traders, as they represent their own particular interests, and not those of a class, will not be heard against an amalgamation bill. Caledonian and Scottish Central Bill (R. p. 51.) In that case, however, there was another objection to the *locus standi* of the petitioner, that they had entered into an agreement, binding themselves not to oppose. The objection on the ground of their being sole traders was taken first, but the Court refused to hear it as a preliminary objection, consequently the question is still left a little in doubt, as the decision did not specify on which of the two objections the *locus standi* was refused. See also Ely and Ogmore Valleys Junction Railway Bill (R. p. 101),

petition of Brogden & Sons. On the other hand see Swansea Canal Transfer Bill (R. p. 35).

Neither user of station, nor absolute use and enjoyment of a line will give a *locus standi* to petitioners. Two very marked cases were decided on this point, in neither of which did the court allow a *locus standi*.

By an agreement entered into between the Brighton Company and the Chatham and Dover, and sanctioned by Act of Parliament, the Brighton Company undertook to erect a station at Knight's Hill. Of this station both railways were to have joint user. The whole cost of construction was to be borne by the Brighton Railway, but the Chatham and Dover Railway paid interest on the outlay incurred in making the station, calculated on the amount of traffic they carried from it. The Chatham and Dover Railway were to make a line from a station belonging to them at Herne Hill to Knight's Hill, for the purpose of generally facilitating the traffic, the cost of which line was to be borne exclusively by them. A third railway, proposed to take running powers over the Brighton line, and to enter and use the Knight's Hill Station. The Chatham and Dover Railway wished to be heard before the Select Committee, in order to protect the rights accorded to them by previous legislation. The Court decided that they had no *locus standi*. Tooting, Merton and Wimbledon Extension Railway Bill (R. p. 40). User. of station, &c.

The question decided in the other case, viz.—as to whether user of a line by a railway company, give a *locus standi* to the company enjoying that right, had never been decided before; the circumstances of the case were peculiar: four railways agreed to subscribe the capital for the West London Extension Railway; the several companies subscribing, were each represented by Directors at the Board of the West London Extension Railway. It did not appear whether the four companies were the only shareholders in the line or not. There was an arrangement between the companies using the West London Extension Railway, as to the conducting of the local traffic, but with regard to the through traffic, each company was to be at liberty to use the railway as if it was their own absolutely, and without regard to the West London Extension Railway. The separate user of the railway was extended so far that the four several companies had each their own ticket and check clerks, as if the line

had exclusively belonged to them. The bill proposed to admit a fifth railway, with equal rights of user to the four now enjoying it. The West London Extension Railway petitioned against the bill, and also two of the companies having the rights of user over it. The *locus standi* of the two latter were objected to: first on the ground that they were shareholders in the West London Extension Railway, and as such, not entitled to be heard; and secondly, that they owned no portion of the line, stations, or accommodation of the West London Extension Railway, and had only rights of user over its line. The first of these objections is an extension of the principle of S. O. 131, and to some extent an inversion of it. It is laid down in that order that—

S.O. 131. "When a bill is promoted by an incorporated company, shareholders of such company shall not be entitled to be heard before the committee against such bill, unless their interests, as affected thereby, shall be distinct from the general interests of such Company."

But the objection was to the effect, that where a railway has *petitioned* against a bill, no shareholder, however much his interests are affected by the same—even should they be distinct from the interests of the company—shall be heard against such bill. The principle seems to have been admitted, that the case came within the scope of S. O. 131; and it remained to be proved, whether the two companies had such a distinct interest, separate from the West London Extension as would take them out of its terms. They proved an entirely absolute user, independent of the West London Extension Railway. They proved that the West London Extension Railway did not work the line, nor did any one but the four railways; and some words in the 29th clause of the bill distinguished them and their interests from the West London Extension Railway. The words were, "And other companies or persons owning or working the railway," are to be compelled to enter into certain arrangements with the promoters. It is clear, therefore, that the railway seeking to use the line contemplated, that each of the four companies had an interest separate from the West London Extension Railway. And although they might have representatives at the board of that railway, it does not at all follow that their separate interests as distinct from their interest in the West London Extension Railway, might not have been affected by

the addition of another railway with equal powers of user. The second objection was certainly fatal under S. O. 132. And though I am not prepared to go so far as to say the decision of the Court is an erroneous one, yet it must be conceded that the petitioners came under the category of parties named by the Court (in the Roach River Fishery Bill), whom they consider ought to be admitted against a bill, viz.—"Persons whose interests are affected by it." London, Chatham and Dover Railway Bill, No. 1 (R. p. 86).

See also Manchester, Sheffield, and Lincolnshire Extension Railway Bill (R. p. 65), and Manchester and Milford Railway Bill (R. p. 43), Monmouthshire Railway and Canal Bill (petition of E. Davies). (R. p. 103).

The Court has decided not to hear petitioners (who had, under an agreement sanctioned by Parliament, laid down narrow guage rails on a broad guage belonging to another company), against a bill by a third railway, proposing to place additional rails on the same line, and which the company owning the broad guage did not oppose. Manchester and Milford Railway (R. p. 43).

Municipal and Other Authorities and Inhabitants of Towns and Districts.

The standing order under which the above parties may be admitted as petitioners is as follows:—

"It shall be competent to the Referees on private bills to admit "the petitioners, being the municipal or other authority, having the "local management of the metropolis or of any town; or the inhabi- "tants of any town or district alleged to be injuriously affected by a "bill, to be heard against such bill if they shall think fit." S.O. 133.

Here again a general discretion is given to the Court to admit or reject petitioners who consider themselves aggrieved. The apparent meaning of the above order is, that the municipal authority of the metropolis, or of any other town, having municipal authorities, may be heard. Should the municipal authorities decline to interfere in corporate towns, then the authority having the local management of the metropolis, or such towns, may do so. Next, that in the case of towns having no municipal bodies, the authorities having the local management of them are the Construction of Order.

persons indicated as competent to be heard against a bill which is supposed to affect their interests. Lastly, the inhabitants of any town or district, which has neither municipal or local authorities, are to be heard as petitioners when their town or district is alleged to be injuriously affected by the proposed bill. But it does not seem by any means certain, that in any case under this order the inhabitants of a town are not entitled to a *locus standi*, even when their municipal authorities may be in favour of the scheme; for there is nothing in the standing order to prevent the inhabitants of any town having a *locus standi* against a bill, even one promoted by their local authorities, although the principle has been distinctly acknowledged that the constituent bodies of a corporation cannot be heard against their common seal Whitechapel and Holborn Improvements Bill (R. p. 70). But then the question arises, What is the definition of inhabitants? Taking the words in their strictest sense, two or more persons inhabiting any town or district appearing as petitioners against a bill, would seem to satisfy the strict interpretation of the standing order. It has not been, as far as I can learn, decided what interpretation the Court has put upon these words. It was indeed contended, in the East London Railway Bill (R. p. 85), "that the inhabitants of any town or district must meet, and the majority must decide;" but in order to put that construction on the standing order, the words "majority of the inhabitants of any town," &c., ought to have been inserted in it. And in this case the Court did not endorse the construction which was attempted to be put upon the words of the order. Some definition of inhabitants would be convenient; for although the natural inference may be, that it means the majority, the words do not strictly or logically bear that signification.

Locus Standi allowed.

Certain petitioners against a railway bill described themselves as "owners, lessees, and occupiers of property, situate in the parish of Kingston, and inhabitants of the parish," it appeared that the land of some of the petitioners was actually taken by the proposed line; one petitioner complained that the line would run an embankment, fifteen feet high at the bottom of his pleasure grounds, so that while he was not entitled to any compensation, his property would be seriously and prejudicially affected—many of the petitioners were merely inhabitants and householders in the parish. The

promoters, the London and South Western Railway Company, did not object to the *locus standi* of the petitioners whose land was actually taken, but objected to those of their number who claimed as inhabitants only; and their contention was, that the inhabitants as a body alone could be heard. The Court decided that the *petitioners ought to be heard in the character of inhabitants*, but only those who could show that their land had been taken. It is difficult to reconcile this decision with the wording of the standing order. If the Court had decided that landowners, whose property was proposed to be taken, would alone be heard, such a decision would be intelligible; or had it treated the petitioners as inhabitants, alleging their town or district to be injuriously affected, and so coming within the words of the standing order, which applies, but the judgment seems to combine the two. The petitioners are declared entitled to be heard as inhabitants of Kingston, if so, they ought to have been heard irrespective of their ownership of land taken for the purposes of the railway; and as alleging, that their town or district was injuriously affected, for although the question was raised, the Court does not seem to have considered that they were not a fair representation of the inhabitants of Kingston. The decision merely amounts to the admission of landowners. London and South Western Railway (R. p. 72).

Specific Allegations of Injury requisite.

In all instances, where corporations, local boards, or the inhabitants of towns or districts have petitioned against a bill, the Court has required that there should be a specific allegation in the petition that the town or district was actually affected (Severn Junction Railway (R. p. 95), and the Vale of Crickhowel Railway Eastern Extension Bill (R. p. 108). In the former instance the corporation of Tewkesbury were riparian proprietors, being owners of certain lands, wharves, &c., on the banks of the river Severn and petitioned under their common seal against a railway proposed to be carried over the river; there was no averment in the petition that the town of Tewkesbury would be injuriously affected by the line. Following the decision in the Farnham and Netley Railway (R. p. 75), they were entitled to be heard as owners of land on the banks of a river, and the Court restricted their *locus* to this, and did not give them a general *locus* against the bill. In the Vale of Crickhowel case the *locus standi* of the Abergavenny Improvements Commissioners was disallowed. The Court has however made

an exception to this general rule. In a case which was heard immediately preceding the above, the Mayor, Aldermen, &c., of the city of Chester, petitioned under their common seal, alleging that they were owners of wharves, &c., on the banks of the river Dee, but not stating that the city of Chester was injuriously affected, against a proposal to form docks on the shores of the river Dee, to construct two railways on or near the estuary of the said river and to construct a new channel, 3000 feet long for the river Dee; certain commissioners of the river also petitioned. The Corporation of Chester were allowed a general *locus standi* against the bill. Connah's Quay Railway and Docks Bill (R. p. 93). It is difficult to discover in what particular their position differed from the corporation of Tewkesbury, mentioned in the last case; both were owners of land on the banks of the river, both were interested in the preservation of the navigation, and in neither case did the petition allege that the town of Tewkesbury or Chester was injuriously affected; yet, some marked distinction in the cases must have existed, to induce the Court to vary a decision which they had a few days before given.

The Brecon and Llandovery Junction Bill (D. p. 4) is a case worthy of attention; the ~~Mid Wales~~ petitioned against the bill; and although it was admitted they were neither injuriously affected, nor could they be said to come within the provisions of S. O. 132, yet as the promoters had not fulfilled their portion of an arrangement sanctioned by Parliament, and as the ~~Mid-Wales~~ had done their share at considerable expense, the Court considered the petitioners entitled to a *locus standi* on general grounds. The scheme of the promoters would have freed them from engagements entered into under the provisions of their Act of 1863.

General *Locus Standi* allowed

In the following remarkable case, in which the same Mayor and Corporation of the town of Chester, being owners of lands, houses, &c., on the river Dee, together with certain commissioners of the River Dee, petitioned against another proposal to carry a railway across the estuary of the river Dee, by means of a viaduct, 300 yards in length, on the general ground, that the scheme would have the effect of damaging the channel of the river, which was navigable some miles above the site of the proposed railway up to the town of Chester; and also, that it would be the direct

interest of the railway to do so, in order to divert the traffic from the ports above to their own docks and railways. In addition, a company, under statutory powers, had been entitled to embank and reclaim certain portions of the estuary of the river Dee, and such lands when reclaimed were vested in them; by the same Act they were bound to maintain the channel of the river Dee in an efficient navigable condition. By other and later Acts, two commissioners were appointed, who, when the company had neglected to perform their duty for a certain time, and allowed the channel of the river to be under a fixed depth, had power to apply the rents of the lands vested in the company, for the purpose of restoring the navigation. The commissioners having an opposite interest to the River Dee Company, also petitioned jointly with the corporation, against the bill, on the grounds, among others, that any interference with the bed of the river, and with the existing navigation, might have the effect of releasing the River Dee Company from their obligations to maintain the navigation in the state of efficiency prescribed by the existing statutes, and of depriving the commissioners of the river Dee of the remedies they possessed in the event of the failure by the River Dee Company to fulfil their obligations. The *locus standi* of the river Dee commissioners was objected to, and the points urged upon the Court were, that no property of theirs was taken, that they were not conservators of the river Dee, and that they had no control over the banks or navigation of the river. It was generally urged for the corporation, that they were the proper parties under the standing order, with regard to muncipal bodies to appear against a bill, proposing to interfere with a river directly affecting the prosperity of the city of Chester, and also that they were owners of property on the banks of the river; and for the commissioners, that should the proposed bill become law, the company responsible for the preservation of the navigation would be able to set up the Act of Parliament as a defence, against any attempt on the part of commissioners to enforce their powers; the objection against the *locus standi* of the corporation was not persevered with, but the Court held that the commissioners of the Dee had no *locus standi*. With regard to the decision, with respect to the petitioners as commissioners under an Act of Parliament, charged to enforce the maintenance of a certain depth of water in the River Dee, it is difficult to

see how consistently, with the dictum of the Court in a later case Roach River Fishing Bill (R. p. 110), they could be excluded from being heard. In that case it was laid down, "As a general rule, all persons are entitled to be heard against a bill whose interests are affected thereby," and as the petition alleged that the proposed bridge might tend to the silting up of the channel of the River Dee, of which they were the conservators, appointed by Parliament, this statement would appear give them under that dictum at least, the right to appear. It is true, no land belonging to them was taken, nor were they actually in the position of any party defined by the standing order as absolutely entitled to a *locus standi;* but it must be remembered, that the interests of the River Dee Company were inimical to those of the trustees, and that the allegations of the latter were, that the railway works would have the effect of destroying the channel, which they were bound by Act of Parliament to protect, and that they apprehended the result of this Act would be, to enable the company to set it up as a defence when they endeavoured to put into effect their powers under the former statutes.

Locus Standi disallowed.

The Court has refused to hear the Vestry of a Metropolitan Parish, against a bill promoted by the Metropolitan Board of Works, for Local Improvements. No attempt was made by the vestry to show that they had a distinct right or separate interest, and the rule distinctly applied in this case, that constituent bodies of a corporation cannot be heard against its common seal, Whitechapel and Holborn Improvement Bill (R. p. 70).

They have also refused to hear the Trustees of a Metropolitan Parish, who petitioned against a proposed Railway, on the ground that the rates would be depreciated. Another body, the District Board of Works had also petitioned, but they had no control over the rates. The bill as before the Committee did not provide for the depreciation of the rates until a fresh assessment could be made, with the exception of the poor rate and land tax, which are provided for by the Land Clauses Act: East London Railway Bill (R. 7. 85).

See also on this point St. Clement Danes' Improvement Bill (D. p. 3).

In both these last cited cases, the parties whose *locus* was refused, were the authorities who made and collected the rates; and

as such protested that their parish would be injuriously affected by the temporary depreciation of valuable property within it. In the latter case, a stipulation was made, that a clause providing for the rates, during the proposed improvement, should be inserted in the bill.

A private Joint Stock Gas Company, who had established themselves at Atherton since 1836, and had, as they alleged, served the neighbourhood creditably, were in treaty and had made preliminary arrangements with the Local Board of Atherton, for lighting the streets and such places as might be requisite. The Local Board of an adjoining district applied for a bill to supply gas to their district, including a portion of the district of Atherton. Against this the Atherton Gas Company petitioned, alleging that they would be injuriously affected by such an undertaking. Their *locus standi* was refused by the Court. Probably the Local Board of Atherton would, under the strict meaning of the standing order, be the proper body to petition against an interference with their district; but on the other hand it must be conceded, that the petitioners came within the category of persons whose interests are affected; and as such, might at the discretion of the Court be admitted against a bill. On the other hand they were at the mercy of any one who chose to indict them for interfering with the streets, as no consent of landowners nor local bodies takes away that right, unless there is Parliamentary authority, which the petitioners had not. Tyldesly with Shakerly Local Board (R. p. 82).

In the proposal of the Neath and Brecon Railway, to have the Swansea Canal transferred to them, the Court would not grant the *locus standi* of the Board of Health of Swansea, who petitioned against the existing rates, charged on the Canal, and generally against the policy of the transfer. But already the trustees of Swansea Harbour and Dock had been allowed a *locus standi*, and also three extensive traders in the district, so that it may be supposed the Court were inclined to consider that the municipal authorities, and the trade of the county, would be sufficiently represented. Swansea Canal Transfer Bill (R p. 69).

The Corporation of Newport were refused a hearing against the Monmouthshire Railway and Canal Bill, which sought additional powers and also to acquire a canal; their grievance was, that there were several railway crossings on the level of some of the public

streets of Newport, and that the corporation who had always considered them dangerous, perceived with great alarm the proposal of the Railway to bring additional traffic over these crossings. The ground of refusal was, that the Referees would not revise the evils of past legislation. Monmouthshire Railway and Canal Bill (R. p. 103); but on the other hand, see London and North Western (New Works), England and Scotland Bill (R. p. 63).

Traders, Freighters, Rates, Tolls.

Former practice, with regard to.

Traders and Freighters do not come within the scope of any standing order, which defines parties who are entitled to a *locus standi*, but as it would be a manifest injustice to allow railway companies to amalgamate or to propose extensions, without hearing the persons most interested, viz.—The traders and freighters of the district, these two classes have gradually been admitted under certain circumstances, to the privilege of being heard on questions which most nearly concern their interests. Before the establishment of the Court they were merely admitted by custom, and in no case that I can discover, except against amalgamation bills. A further concession has now been made, and under the new regime they have been heard against extension bills. They were also formerly refused a hearing against any bill, except the question of tolls was involved directly in it, and the application of existing rates to an extension was not held to involve such a question; this rule will be found also to have been relaxed. Past committees have held, that freighters of a canal, which a railway proposed to have transferred into their hands, were not entitled to be heard against such a proposed transfer. The decisions on this point will be found to have been overruled, and in general a disposition will be discovered in the decisions on this head, to admit rather than reject the reasonable claims of persons interested to be heard.

Locus Standi allowed.

The first decision on this question in which a *locus standi* was allowed to petitioners—which seems to establish a principle and to overrule the practice hitherto governing committees, is that of The North Staffordshire Railway Bill (R. p. 61). It will not, as will be seen hereafter, be found to be perfectly consistent with some decisions on the same question earlier in the session. In this

case, the North Staffordshire Railway Company, by their Act of 1847, had power to charge a six mile toll for all goods, minerals, &c., conveyed by them over any portion of their line. They came to Parliament for powers to construct three short new lines, of which one only was to be six miles in length, the other two being very short indeed; and they proposed to apply the same rates of toll and charges in respect to their new lines as they were entitled to levy by the provisions of their Act of 1847; but no variation of charges was to be made, nor was power sought to levy any higher tolls than those in existence. The petitioners, owners of mines, and traders in the district, were admitted to be entitled to be heard, as owners against those clauses in the bill, and that part of the preamble which affected their interests as owners; but an objection was taken to their being heard as traders against the clauses in the bill which had reference to tolls, and to their having a general *locus standi*. The petitioners affirmed, that they represented the whole trade of the district, and contended that as owners of mines, they had an undoubted *locus standi* against the whole Bill; and next, that as traders they were entitled to be heard against the six miles tolls. They also proposed a revision of the charges authorized by the Act of 1847, and submitted that an uniform minimum three mile toll should be imposed upon the whole North Staffordshire system.

The promoters contended, that under S. O. 128, they might possibly be admitted in the discretion allowed to the Court, but that to that standing order the power of the Court was limited; and further argued, that as no fresh tolls were proposed to be levied, the petitioners neither by custom, nor by any existing order, were entitled to be heard. The Court held that the petitioners had a general *locus standi*, both as owners of mines and as traders.

This decision would seem to affirm, that a body of traders and freighters, using any line, are entitled to be heard on the question of a revision of tolls of that line, if it is proposed to make any extension of such railway, and impose the same tolls authorized to be levied by previous legislation. It is tolerably clear, that there is no precedent for the admission of traders under such circumstances, and were it not for other decisions on similar questions, irreconcilable with this, the principle would by this case have been established that traders are entitled to be heard against any extension bill, and to open the question of revision of tolls granted

by previous legislation. It was not urged upon the Court, but it may be mentioned here, that the whole question of a revision of tolls was under the consideration of a Royal Commission.

A similar case to the above, and affirming the principle agreed to in that decision, was that of the London and North Western Railway New Works Bill (R.p.63). In that case also the London and North Western Railway Company sought additional powers to construct certain new lines, and apply to them the same rates and charges authorized to be levied by them under their existing acts. The petitioners, the Chamber of Commerce of Liverpool, and an influential body of freighters on the Liverpool and Manchester Railway, complained that the existing tolls were partial and unequal, and fixed and levied in an arbitary and unfair way, that the interests of the petitioners and the trade of the port of Liverpool suffered thereby; and the petitioners further submitted, that a system so oppressive, ought not to receive countenance from the House of Commons, and that this proposed bill gave the opportunity for a general revision of the tolls and charges of the company. In this case also the Court considered that the petitioners, traders, and freighters had a right to be heard, although there were no fresh tolls proposed to be levied under the bill.

There is another case in which the same principle is laid down, that freighters on a railway are entitled to be heard against any extension of the line which they use, when it is proposed to apply existing tolls to the new line. The freighters on the Monmouth Railway, petitioned against a bill authorizing the Monmouth Company to execute additional works, to acquire a canal and for other powers, including two deviations of their existing railway, and certain branches. The petition stated, that the Monmouth Railway Company were empowered by their Act, to make additional charges for articles or persons conveyed on their railway for a distance of less than four miles; but that they had virtually turned this power into a four mile clause, for the conveyance of mineral traffic, even when the traffic was conveyed in the trucks and carriages of the freighters. And they further submitted, that the company should be restrained from charging tolls for the use of their railway, or more than the actual mileage travelled. In this case the petitioners prayed for a revision of the existing regulations sanctioned by former legislation; they however further alleged, though it

does not affect the question of their *locus standi*, that certain works, undertaken to be completed by the Monmouth Railway Company in a given number of years, had not been finished, and that therefore Parliament ought not to grant them further powers, until they had carried out their engagements under a former Act. The Court granted them a *locus standi* as freighters. Monmouthshire Railway and Canal Bill (R. p. 130).

It has already been stated that Select Committees had decided against hearing freighters of a canal which a railway company proposed to absorb. As in most instances of this nature, the canal could be the only rival of the railway in competing for goods traffic, the result of such a transfer would evidently lead to a complete monopoly by the railway, which would be enabled by raising the tolls, on the canal, to drive the traffic off it on to their line. Notwithstanding this, there is no case to be found where Committees would hear freighters under these circumstances. The case which follows, therefore, though most equitable, must be taken as without precedent.

Petitions of single traders.

Three petitions were presented against a bill proposing to transfer a canal to a railway company; the whole three petitions demanded that provision should be made in the bill for the effectual maintenance of the canal, and for the protection of the petitioners, who enjoyed certain rights and easements over it.

The first petition also alleged, that by a grant between themselves and the canal company, they were enabled to send their merchandise at a certain fixed rate, and that it would be the interest of the railway company to charge the maximum rate; they therefore prayed, that the tolls should be lowered if the bill passed, throughout the entire length of the canal.

The other two petitions were presented by colliery owners, freighters on the canal, and they stated that they used the canal extensively, and had certain easements connected with it, such as drawing a quantity of water from the same; and that they apprehended if the canal were vested in the railway, an entire monopoly of the traffic would be created, and that their interests would thereby suffer.

The petitioners also urged, that under S. O. 850, they were entitled to be heard; that order provides "that no railway shall

be authorized to construct, or enlarge, purchase, or take a lease, or otherwise appropriate any dock, pier, harbour or ferry, unless the committee on the bill report that such restriction ought not to be enforced;" and contended that this standing order could not be enforced unless the traders were heard. It seems to me that this argument is beside the question; as in the first place no mention is made of canal or lock; and secondly, should it be granted that such might be included in the words of the standing order, no mention is made that freighters using them should be entitled to a *locus standi*. The broad reason that the petitioners were traders and freighters, whose interests were affected, seems to have had most weight with the Court.

It seems to have escaped the notice of the promoters, that these three petitions were those of single traders, who did not petition jointly as traders of the district, but each on their own account, and endeavouring to make the best terms they could for themselves. If this was so, according to the decisions in the Caledonian and Scottish Central Railway Companies' Bill (*ante*) and the Ely and Ogmore Valleys Junctions Railway Bill they were not entitled to be heard. It could not be said that they were admitted on account of the great traffic they carried, as in the first case above cited, the Messrs. Baird alleged they carried on one-fourth of the whole iron trade of Scotland.

There was another petition against the same bill by the conservators of the harbour and owners of the port of Swansea. These petitioners alleged, that they had constructed a lock, communicating from their docks to the canal proposed to be transferred, and a basin for the convenience of barges using the same, and that they were entitled to rates on all vessels entering the canal through their lock. They further alleged, that in their opinion the transfer proposed would act injuriously on the trade of the district, by placing the control of the canal in the hands of the railway company, which might have interests opposed to the general interests of the trading community. In this case also the *locus standi* of petitioners was allowed. Swansea Canal Transfer Bill (R.p. 35 and 38).

The dredgermen and fishermen of the river Roach have been heard as traders against a bill proposing to incorporate a company, and for maintaining an oyster fishery in the river Roach. The petition was also signed by owners of the foreshore, these

however were not heard, as no part of their property was proposed to be taken. It was strongly urged that as any of the public had a right to fish over the ground proposed to be taken, these oyster men only formed part of the public, and that clearly the public could not petition, the only private right which was effected was the crown, in whom was the soil—but it was held that the petitioners had a *locus standi* as traders. This case has carried the case of the admission of traders to its furtherest limit. Roach River Fishery Bill (R. p. 110).

Locus Standi disallowed.

It is now necessary to consider those cases where the Court has thought proper to disallow the *locus standi* of traders and freighters. The case of the traders and manufacturers of Widnes was the first decided by the Court, and governed others subsequently. These petitioners stated, that in consequence of the proximity of Widnes to the Wigan coal-fields, they had established various industries there, and were competing with two other ports, Garston and Runcorn, situate at a considerably greater distance from the coal-fields than Widness; but that by an agreement between coal owners and traders at Garston, coal for shipment was to be carried to all these three ports at an uniform rate, greatly to their disadvantage; and they further alleged, that they believed that the rule had been, and would be extended in the case of coals carried to Garston for the purposes of manufactures.

No evidence of this agreement was forthcoming, and following precedent the Court disallowed the *locus standi*. These petitioners being persistent, petitioned against an amended bill promoted by the same company, incorporating the agreement referred to. And it was most strongly urged on the Committee, that they were entitled to be heard, especially as the proposal to change uniform rates for unequal duties is contrary to the spirit of past legislation; and as the export trade of Widnes would manifestly suffer by the partiality shown to the other places. The petitioners were not allowed a *locus standi*. Lancashire Union Railways Bill (R. p. 59), *idem*, amended (R. p. 67).

A remarkable decision was, that against the petition of the Liverpool Chamber of Commerce and the merchants and traders of Liverpool, who petitioned against the Manchester, Sheffield, and Lincolnshire Railway Bill (R. p. 65), in which an extension was sought.

These petitioners, a most influential body, alleged, *inter alia*, "that the public advantage would not be attained unless stringent and effective provision were inserted in the bill for having an equal and impartial scale and arrangement of the tolls and charges over the Company's system, and for preventing them from having particular plans and routes, at the expense of others;" and further, that a power of agreement with the London and North Western Railway to work the proposed line should be omitted from the bill, as it tended "to monopoly and to sanction and perpetuate the partial and unfair arrangement of tolls and charges adopted by the company." These allegations of injury seem strong, but the promoters did not seek to impose fresh rates, but to adapt those given them by former Acts, and the Referees following the decision in the case of the Widnes traders, refused the petitioners a *locus standi*, on the ground it must be presumed that their allegations as to injurious working of the existing rates was not sufficiently specific.

It will be remembered that a similar influential body of traders of Liverpool had petitioned against the London and North Western (New Works), England and Scotland Bill, and that their *locus standi* had been allowed. I confess after a careful perusal of these two cases I cannot discover the reason why a *locus standi* was allowed to one and disallowed to the other. I have indicated above, that in the Manchester, Sheffield, and Lincolnshire case, it may be that the petitioners were not sufficiently specific in their allegations as to the tolls, but they are at any rate quite as specific as those in the case in which the *locus* was allowed.

These are the allegations of the petitioners against the London and North Western in respect to the tolls.

"That the tolls, rates, and charges, are in many instances fixed and levied in an arbitary and unequal way."

"That your petitioners submit that a system so arbitary and oppressive, and a scale of rates, tolls, and charges so vicious, ought not to be extended to any new railways and works, or to receive any countenance or tolerance from your Honourable House."

"That the company's system is framed with a view of forcing the traffic by particular routes, and to particular points."

If these allegations are compared with those in the Sheffield case, it is most difficult to find the reason influencing the Court

to reject one and admit the other. The case of the traders of Widnes was very analagous to that of the Staffordshire traders *(ante)*, neither of them wished other places to be favoured at their expense, and both alleged themselves deeply interested—their petitions, as has been seen, met with a different fate.

Additional Cases.

There are a few cases which can scarcely be classed under any of the foregoing heads, and yet which require some notice. On two occasions, corporations, who failed to allege that the town which they represented was injuriously affected, have been heard against a bill proposing to interfere with a navigable river on which their town was situate; but a *locus standi* was conceded to them as owners of wharves and quays. Severn Junction Railway and Connah's Quay Railway and Docks Bills (*ante*).

Riparian properties.

In the Farnham and Netley Railway (R. p. 75), which indeed was the first and leading case on the point of the *locus standi* of riparian proprietors, several owners of wharves and quays—on the banks of the Hamble River—were held to be entitled to a *locus standi* against a bill which proposed to cross the river by a viaduct below their property. It was not intended to touch any land of the petitioners; but they apprehended serious injury from the proposed bridge, to the user of the water way, and obstruction to the navigation of the Hamble. In these same cases, a petitioner, owner of property and houses above the bridge, alleged that he and his tenants enjoyed great facilities, by reason of their coal and other commodities being brought up the river by boats; and that they apprehended they would lose such facilities, in consequence of the prejudicial effect the viaduct would have, over the navigation, he was held not to be entitled to be heard; he had showed that some specific damage would accrue to him, in consequence of his not being able to bring his yacht through the bridge, which would cause him to go four miles down the river to get on board. It was not stated that the petitioner or his tenants were owners or occupiers of any property on the banks; but it was conceded that they had certain easements, but not over any land proposed to be taken.

This decision differs from some cases decided by committees previous to last Session. In particular, the London and North Western Railway Bill and Mersey Bridge, which was a proposal to cross the Mersey at Runcorn, and in that case the carriers were heard. In a like case, the bargemen of the River Ouse had been heard; and it was so held by a decision in the House of Lords in 1863, which has frequently been quoted, the Solway Junction Bill. There the petitioners described themselves, and were admitted to a *locus standi*, as inhabitants (although it was proved there were only three of them) of the port of Bowness; they did not claim to be heard themselves as traders or freighters, but as owners of certain houses in the town of Bowness; and they in like manner to the above case petitioned against the building of a bridge across the Solway, which they feared would interfere with the due navigation of that estuary. It must therefore be taken as decided, that the ownership of property, near a river, proposed to be interfered with, coupled with probable damage, will not entitle a petitioner to *locus standi*.

Limits of deviation.

Although the petitioners in the above case were granted a *locus standi*, where their rights consisted in an easement in the water of a river, in the case of the South Eastern Railway Company, the Court has not considered when the easement consisted of an ancient light, which the promoters would by their works interfere with, that the petitioners, the Skinners' Company, had a *locus standi*. The promoters had become possessed of the Charing Cross Railway, which was formed by an Act passed in 1861. In that Act a clause was inserted, specially providing that in executing the works authorized by the Act a certain street should not be reduced in width. In this street was situated the Hall of the Skinners' Company. The petitioners alleged, that in contravention of this clause, the South Eastern Company had begun to build an hotel opposite their hall, which was to be 90 feet high, and had also encroached a very considerable distance on the street above mentioned. It appeared that the Skinners' Company had obtained an Injunction in Chancery to stop the further progress of the building; but the object of the promoters was to authorize their proceedings,

Protection by former acts.

by repealing the provisions of the Act of 1861, which rendered it obligatory on them not to reduce the width of the street. It is quite true, the property of the petitioners was not within the limits

of deviation, but they were specially protected by clauses in previous enactments which the promoters sought to annul. Ancient lights are in some instances as valuable easements as a user of waterway, and it is submitted that proprietors of ancient rights, and just beyond the limits of deviation, had equal pretensions to be heard against a proposal to obscure them, as the proprietors of wharves, situate some considerable distance above a proposed bridge across a river, which they claimed to be entitled to navigate.

Limits of Deviation.

The same decision was given in the case of the North London, Highgate, and Alexandra Park Company (R. p. 113). In which case the petitioner complained, that his property would be injuriously affected by a viaduct crossing the road in front of an inn, of which they were owners and occupiers. There are decisions of former committees to the same effect; but on the other hand, a petitioner who complained that his property would be injured and shaken, by a proposed railway, has been heard against it, East Gloucester Railway Bill (May, p. 732).

Purchase of land after presentment of petition.

If persons purchase land, which is required for the purpose of a railway, after they have presented a petition against such railway, in a capacity other than that of landholders, and do not present any fresh petition, alleging that their lands will be taken; they will not, on account of their acquisition of such lands, be therefore entitled to a *locus standi*. Ely and Ogmore Valleys Junction Railway Bill (R. p. 101).

CHAPTER. III.

Engineering Details—Efficiency of Works—Sufficiency of Estimate—Waterworks—Gas.

In this chapter it is proposed very briefly to summarize in the above order the decisions which have been given under S. O. 93. It has been thought convenient to collect the whole of these into one chapter, although, as is hereafter pointed out, there is some doubt how far the second paragraph (relating to water bills), and the third (relating to gas), are governed by the first paragraph, which relates to other bills for construction of works.

Engineering Details.

During last Session, there was some doubt whether or not the decision of the Referees (though in practice almost invariably fatal if adverse) was absolutely conclusive in the case of railway bills. This doubt arose from the fact, that by S. O. 149 the chairman of the committee was directed to report to the House on "the merits, in an engineering point of view, of the proposed railway." In the corresponding standing order of this year (No. 154), however, these words are omitted, and a new standing order (No. 96) has also been introduced, which declares, that "in case the Referees shall report with reference to any bill that the estimate deposited in respect thereof is insufficient, or that the engineering is inefficient for the proposed object, the bill shall not be further proceeded with, unless the House shall otherwise order. It is submitted, however, that even this new order is very ambiguous, the words used in S. O. 93, being "the engineering *details*" and "the efficiency of the *works* for the proposed object;" so that the new order mixes up into one the words of the two paragraphs, which one would think were quite distinct, inasmuch as a line may be perfectly well engineered, and yet by not effecting junctions with existing lines, or by running through a desolate country, instead of accommodating intervening towns, it may be very insufficient for the proposed object.

It is presumed, however, that the intention of the clause is to conclude the Committee, on either efficiency of works or to use the words of the old order, "engineering merits."

In any case the present system is after all only an extension of the principle affirmed in S. O. 95, "that no further evidence shall be taken before the Committee upon any of the matter reported upon by the Referees."

Objection must be on proposed line.

The objection must be one occuring on the proposed line itself, or in some work proposed to be authorized by the bill, *Wolverhampton and North Staffordshire Railway* (R. p. 125), unless the circumstances be very special, as where the proposed line ran very close to powder mills; and it was objected that this was not an engineering defect, but the Referees held that this was an exceptional case, that the danger concerned the line as well as the mills, besides which they could not be shifted like an ordinary residence, *Caledonian Railway (Balerno and Penicuick Branches)* (R. p. 120). The promoters subsequently agreed to cover in their line, to which the petitioners agreed. *Same case (D. 26).*

A distinct issue on engineering must be raised on the petition, injudicious direction and course of the line not being sufficient. The very words of the order should be used. *Barnet, Hendon, and Hampstead Railway Bill* (R. p. 117), *ante p.* 11.

The Referees can only report on the merits of the works as proposed by the bill before them, *Lancashire and Yorkshire (Additional Powers) Bill* (R. p. 122).

Practically there is usually little difficulty on questions of engineering in ascertaining the jurisdiction of the Referees, and obtaining from them a report which will enable the committee to deal satisfactorily with the bill, though on one occasion, during last session, a great misapprehension arose. In the *Dee and Mersey Junction Railway* (*D.* 31), the Referees reported, that the navigation of the Dee would be rendered in their opinion dangerous; whereupon the committee refused to entertain the bill, and upon the Referees being appealed to, they stated that such was not their intention, but the committee refused to alter their decision.

The digest of the reports which will be found in the appendix, contains (as nearly as is possible in a condensation) in the very words used by the Referees, their views on the various schemes brought before them.

There is one difficulty in making them of practical utility, which has been felt very strongly in preparing them for press, viz.—that in many cases the Referees have not deemed it necessary (probably with reason) to explain fully the facts or the reasoning deduced therefrom, upon which their decisions are founded, and hence it arises that in some cases results apparently contradictory have been arrived at, when probably were one in possession of fuller information an appreciable distinction would be found to exist in the state of facts from which their judgments have been deduced. The Referees have, in construing S. O. 95, which requires them "in their report" to "state the facts upon which their opinion is founded" thought that they were not called upon to state the evidence of the fact and in practice have not done so, (*Select Committee on Referees, p.* 17, *question* 157). In some instances, for example, where concessions have been offered by the promoters, the Referees have reported in favour of the bill subject to such concessions; but in all those cases it is believed that such concessions have been assented to by the parties, and have been confined strictly to works which could be carried out within the limits of deviation, and for which the estimates were sufficient. (*Select Committee on Referees, p.* 21, *question* 185).

Concessions to Promoters.

Improvement where matter of clause.

The Referees have also in many cases, where the estimate was sufficient for carrying out the proposed works, suggested improvements, which they, not being able to deal with matters of clause, could not enforce, but on which their recommendation would of course weigh very strongly with the Committee.

In such questions as this, the new power given to the Referees by S.O. 94, with consent of parties to hear the whole bill will be very valuable, giving as it does to all parties the services of a highly skilled tribunal, and saving all the expenses attendant on a double inquiry.

Another difficulty which has been felt, is one inherent in the subject, for the facts and circumstances of each case must vary so much that engineering must be merely relatively either good or bad in every instance.

The Court cannot entertain the question, whether a site selected is inferior in essential particulars to one selected by petitioners, or whether other preferable sites might be found. Bute Docks, Cardiff (No. 1) Bill (R. p. 18).

They can inquire into whether proposed works will tend to silt up a harbour. Bute Docks, Cardiff (No. 1) Bill (R. p. 18).

The Referees have no power as a rule to consider and compare competing schemes, but they exercised such a power in the cases of *The Deal and Dover Railway, and The Dover, Deal and Sandwich Railway* (*D.* 58). Usually, they have reported simply, that there is a competing scheme, and have considered both schemes as nearly as possible on the scheme day. A wise precaution is the one adopted in the cases of the South Lancashire Railways and Dock, and the Lancashire Union Railways, where comparative tables of gradients were proved and incorporated in the reports.

The Referees cannot go into any question of clause. Great Western Railway Bill (R. p. 124); but see *St. Clement Dane's Improvement (D.* 3*)*, and *ante p.* 13.

Where the petitioners complained that their access to an estate would be cut off, the Referees allowed them to give evidence that a bridge under the line would obviate the difficulty. Great Western Railway Bill (R. p. 124).

Whether in an engineering point of view, a line can be carried any further afterwards, is not a question for the Referees, but for the Committee. Lancashire and Yorkshire Railway (Additional Powers) Bill (R. p. 122).

The Referees have not reported against the bill, but that great care would be requisite in working in the *Brecon and Merthyr Junction Railway (D.* 20*); Greenock Railway (D.* 60*).*

Competing schemes occupying same ground.

Two competing schemes neither being yet authorized, occupying the same ground, is no objection to either *Barnet, Hendon, Hampstead and London Railways (D.*27*); Wood Green, Winchmore Hill and Enfield Railway (D.* 28*).*

Alternative line.

The Referees have considered an alternative line within the limits of deviation, in the *Callander and Oban Railway (D.* 29*); the Surrey and Sussex Junction Railway (D.* 34*).*

The Referees have reported conditionally in the *Glasgow* and *South Western Railway (Additional Powers) (D.* 26*).*

Screens for roads.

In cases where railways have been proposed to be carried near roads, the Referees have decided that screens ought to be provided, *Aboyne and Braemar Railway (D.* 6*); Lancashire and Yorkshire Railway (Additional Powers) (D.* 8*);* that double level crossings would be dangerous in the *Swansea and Aberystwith Junction Railway* (*D.* 21).

They have refused to report as to the propriety of carrying a road over a railway, *North British Railway Additional Powers) (D.* 7).

Concessions to Opponents.

In the following cases, the Referees have allowed concessions to be made to opponents, whilst the bill was before them. *London, Brighton and South Coast Railway* (*St. Leonard's Line*) (*D.* 8); *Spalding and Bourn Railway* (*D.* 9); *Leeds, North Yorkshire and Durham Railway (D.* 42); *Crystal Palace Railways (New Lines), (D.* 45); in the *London, Worcester and South Wales Railway (D.* 47); *North of England Union Railway (D.* 47); *Swansea Vale and Neath and Brecon Junction Railway (D.* 9); *Vale of Neath Railway (Swansea Lines) (D.* 10); *Great Western Railway* (*D.* 11); *Havant, Hambledon and Droxford Railway* (*D.* 11); *Burton-upon-Trent and Nottingham Railway* (*D.* 12), *Bishop's Castle Railway* (*D.* 13); *Evesham and Redditch Railway* (*D.* 14); *Edinburgh and Glasgow Railway* (*No.* 2), (*D.* 14); *Fulham Railway* (*D.* 15). This was as to alteration of point of junction; *Okehampton Railway* (*D.* 16); *Barnet, Hendon and Hampstead Railway* (*D.* 27).

Facing points.

The Referees have reported against facing points on single lines in the *Swansea and Aberystwith Junction Railway* (*D.* 21).

In favour of the same in the *Chichester and Midhurst Railway* (*D.* 41).

Against facing points, on main lines, in the *Wood Green, &c., Railway* (*D.* 28); in the *Leeds, North Yorkshire and Durham Railway* (*D.* 42).

As to back shunts, see *Perth, &c., Station (D.* 50).

Junctions.

The Referees have reported in favour of junctions on crowded lines, where, under the same control in the *London, Brighton and South Coast Railway (Additional Powers), (D.* 33).

On other lines in the *Wolverhampton and Bridgnorth Railway (D.* 37); *Vale of Crickhowel Railway (Western Extension) (D.* 38).

Gradients.

For reports as to gradients, see *Metropolitan and St. John's Wood Railway* (*D.* 46); *London, Worcester &c. Railway (D.* 47); *North of England Union Railway* (*D.* 47); *Newport and Usk Railway* (*D.* 48); *Central Wales, &c., Railway (D.* 48); *Chipping Norton &c., Railway* (*D.* 49).

Level Crossings.

For reports as to level crossings, see *Mold and Denbigh Junction Railway* (*D.* 51); *Midland Railway* (*New Lines*) (*D.* 50).

Powers of Bill

The Referees have reported, that power to effect works, was not taken in the *Okehampton Railway* (*D.* 16), in the *Glasgow, City Suburban and Harbour Railway* (*D.* 17); *Llantrissant and Taff Vale Junction Railway* (*D.* 19); *Brecon and Merthyr Junction Railway* (*D.* 20); *Ely and Ogmore Valleys Junction Railway* (*D.* 22); *Bedford, Northampton and Weedon Railway* (*D.* 24); *North Surrey Railway* (*D.* 35).

As to bridges, that if the public interests required the works, that there was no objection in the *South Wales and Great Western Direct Railway* (*D.* 38).

The Referees have reported, that they had no jurisdiction to decide whether promoters could depart from the point of junction shown on the deposited plan in, *Burton-upon-Trent and Nottingham Railway* (*D.* 12); *King's Lynn Docks and Railway* (*D.* 13); *Ogmore Valley Railways* (*No.* 1), (*D.* 17); *Launceston, Bodmin and Wadebridge Junction Railway* (*D.* 18).

Board of Trade.

The Referees have reported in favour of concessions to be subject to the approval of the Board of Trade, in the *Aberystwith and Welsh Coast Railway* (*D.* 30), and in the *Furness Railway* (*D.* 30), while in the *Fareham and Netley Railway* (*D.* 31) where the promoters offered such a concession, they reported against the bill.

The Referees have abstained from a decision on the advisability of a junction, but that if made it should be subject to the approval of the Board of Trade, *East London Railway* (*D.* 32).

They have also reported against a proposed concession to opponents where the consent of the Board of Trade to carry out the same was requisite, *Poole and Bournemouth Railway* (*D.* 25).

The Court has reported against a line where no provision was made for stations or running powers in the *North Surrey Railway* (*D.* 35), and the *Hornsey and Kingsland Junction Railway* (*D.* 52).

Efficiency of the Works for the Proposed Object.

The points to be inquired into under this head, would seem to be, whether apart from engineering details, the works are well devised for the purpose of attaining the object of their construction. The

decisions upon this head have been very few, and those which have been given are not very important ones.

Estimates.

In certain of the reports an adverse decision has been come to, on the ground of the works being inefficient by reason of the absence of estimate for certain matters, which were deemed necessary for carrying them out, but as is hereafter pointed out under the head of "Estimates" these should rather be placed among that class of decisions, *South Lancashire Railways and Dock* (D. 55); *Leeds, North Yorkshire and Durham Railways* (D. 42).

Where the object of the bill was declared to be "the construction of a line of public and local advantage," and objection was taken that no junction was effected at two different points with the principal existing railway of the district, the Referees held that a statement of the promoters that the object they had in view was a through lead for mineral traffic only, was an answer, and that the works were efficient for the proposed object, *Wolverhampton and North Staffordshire Junction Railway* (D. 57).

Where the object proposed was "the accommodation and through lead of the traffic coming from the Ogmore Valley Railway and the Ely Valley Extension Railway," the promoters proposed to take what traffic came from that line over a branch called the Gellyrhaid Branch, and up a back shunt of 1 in 44. The Referees held that inasmuch as the proposed line did not join the Ely Valley Extension Railway—interfered most prejudicially with its siding ground, and prejudicially affected by the Gellyrhaid Branch arrangement a not unimportant traffic seeking a western destination from the Extension Railway—that the works were not efficient for the proposed object, *Ely and Ogmore Valleys Junction Railways* (D. 22). The Referees will only inquire into works authorized by the bill and occuring on some part of the line. They will therefore not inquire into the question of entering a station on an already authorized line, by shunting back over that line, Wolverhampton and North Stafford Railway (R. 125).

Sufficiency of Estimate.

Before the establishment of the Court of Referees, this question was of course one for the consideration of the Select Com-

mittee on every bill, but now by standing order 93, it is ordered that the Referees shall, amongst other matters, in the case of bills for authorizing the construction of works, inquire into the sufficiency of the estimate for executing the same.

This department of Parliamentary Law is, I may say, almost entirely the creation of the Referees, there having been for many years hardly an instance of a bill failing on estimates.

Some of the decisions of the Referees during last Session are worthy of consideration, more especially as, now by standing order 96, it is expressly provided, that in case the Referees report that the estimate deposited is insufficient, the bill shall not be proceeded with unless the House shall otherwise order.

By standing order 45, the estimate for any works proposed to be authorized by a Railway, Dock or Harbour Bill, shall be in the following form, or as near thereto as circumstances may permit:—

ESTIMATE of the proposed (Railway).

Line, No. .				Whether Single or Double.	
Length of Line		*Miles.* *f.* *ch.*			
	Cubic yds.	*Price per Yd.*	£ s. d.	£ s. d.	
Earthworks—					
Cuttings—Rock					
Soft Soil ...					
Roads					
Total					
Embankments, including Roads ...	*Cubic yds.*				
Bridges—Public Roads	*Number*				
Accommodation Bridges and Works					
Viaducts					
Culverts and drains					
Metallings of roads and level crossings					
Gatekeepers' houses at level crossings...					
Permanent way, including fencing:					
Miles. fys. chs. at	*Cost per Mile* £ s. d.				
Permanent way for sidings, and cost of junctions					
Stations					
Contingencies			per. cent.		
Land and buildings—					
A. R. P.					
			TOTAL ... ... £		

This detailed form is an improvement introduced by the Select Committee on Referees of last Session, on the suggestion of an eminent engineer, and obviates what was felt by those who practised before the Court to be a great inconvenience, and in many cases an actual and serious loss of time, namely the rule enforced by the Referees that—

Right to begin.

Where the estimate is objected to the petitioners have to begin by attacking it; the promoters then call their witnesses, and the petitioners reply on their evidence, except under special circumstances. Forth Bridge (R. 9), *ante* p. 12; South Wales and Great Western Direct Railway (R. 8), *ante* p. 12.

This rule, until the amendment above referred to, made it necessary for the opponents, without informations except the sum mentioned in the deposited estimate, to go into item after item, when probably, except as to one or two, the engineers on each side were quite agreed.

For part of Plans only.

In the case of the *Acton and Twickenham Railway* (D. 58), the estimate was admitted to be insufficient, if the promoters were bound to estimate in respect of all the plans deposited; but they contended, that inasmuch as for a portion of the line the plans were deposited in duplicate by themselves and another set of promoters, who proposed to make that part of the line and had estimated for it, that they were not bound to make any estimate in respect thereof. The Referees did not report against the bill, but merely drew attention to the fact, that there was no such limitation on the deposited estimate, without deciding whether in their judgment this was fatal.

Extraordinary difficulties.

The promoters are not bound to provide for extraordinary difficulties, where their occurrence is very uncertain, and a sufficient margin has been provided to meet contingencies and ordinary accidents, *Birkenhead and Liverpool Railway* (D. 59).

Conjectural.

But where the evidence on both sides was conjectural as to the value of the rocks through which the works were to go, the estimates low, and the margin only £5605 on £350,000, the estimates were deemed vague and unsatisfactory, *Greenock Railway* (D. 60).

Abandonment of part.

If the promoters abandon a portion of their scheme, the Referees will still inquire into the sufficiency of the original estimate for the works, as well as for the portion still remaining for consi-

deration, *Glasgow and North Western Railway* (D. 59). But it was intimated by the Hon. Chairman (*Select Committee on Referees*, p. 20, *question* 181) that in this case the result might have been, that the original estimate had been quite insufficient for the whole scheme, and yet they might have carried a portion of the scheme by abandoning that part for which the estimate was insufficient. And in one case where a part of the scheme was reported against, and therefore abandoned, the committee refused to allow the promoters to proceed with the remainder, and were supported therein by the House (East and West Junction Railway, Sess. 1865).

Stations, &c.

Where no provision has been made for station land and buildings, or for sidings at junctions and at docks, the Court has decided that without these, the proposed works could not be efficient, though strictly this would seem more properly a question of estimate, *South Lancashire Railways and Dock (D. 55), Leeds, North Yorkshire and Durham Railway (D. 42).* The way in which the Referees appear to have regarded the matter, is that the work is insufficient in an engineering point of view, because the estimate would not construct an efficient work; none other can be executed under the bill, and therefore if the estimate cannot construct an efficient work, the work itself is inefficient. *(Committee on Referees, p. 22,* questions 196, 197.*)*

Not for Works in Plans.

Where the estimates were admitted not to have been made for the execution of the works as laid down in the deposited plans, the Referees considered them to have been so loosely prepared, that no reliance could be placed upon them; but it is a little remarkable, that in the same inquiry the Court appears to have allowed the promoters to go into a proposal to construct the works in a material actually different from that contemplated by the estimate. This would seem anomalous, even if the last proposal were merely a return to the material contemplated by the deposited plans which does not seem to have been the case, *Connah's Quay Railway and Docks (D. 61).*

The effect of this is clearly contrary to the intention of Parliament, which was that the same parties should not submit two schemes, and if their first failed, try another, "the estimates should be carefully framed, plans should be well considered, and by those estimates and plans, the parties ought to stand or fall."

Compensation. As to damage for which compensation is claimable, the Referees have reported variously. In one case where a tramway was injured, leading to a colliery worth £50,000, where the promoters admitted that they had treated the tramways as private roads, had made no arrangements with the owner, nor included any sum in the estimate for any alteration of the tramway; they reported that unless suitable provision were made for working the collieries, the compensation to be paid would be very heavy, but did not further report against that part of the bill, *Afon Valley Railway (D. 54)*; while on the *South Lancashire Railways and Dock, (D. 55)*, where a railway ran over a tram, and also through three sets of marshalling sidings in a cutting of three feet, although the promoters alleged that such sidings could easily be re-arranged, but admitted that no provision had been made for such re-arrangement or for compensation, they held the scheme defective.

Where it was objected that a Company would be compelled to take the whole of certain works, which they bisected, the Referees did not decide whether they were bound to do so or not; but that if they were, the estimates would be insufficient, if on the contrary sufficient, *Glasgow and South Western Railway; (Kilmarnock Direct)* (D. 62). But where the petitioners objected that they would be entitled to compensation, under clause 68 of the Lands Clauses Consolidation Act, by reason of their lands being injuriously affected, but the promoters disputed their right *in toto* to any compensation, the Referees held that the promoters were not bound to include any sum in their estimate for such compensation, *Piccadilly and Park Lane, New Road* (D. 63).

With regard to this case, the Hon. Chairman said, "The estimate is the money provided for the construction of the works proposed to be authorized by the bill, and anything outside and beyond that, is not a question for the Referees to consider." "In all estimates you require evidence as to the value of the house property taken, or severance or any compulsory dealing with property; but the moment a line is interposed, the property on one side comes within our cognizance, while that on the other does not."

With great submission to the opinion of one so very able and experienced in these matters, this reasoning would seem fallacious. The object of Parliament in requiring an estimate is to protect property from invasion by persons who have insufficient capital to

carry out their project, and who may therefore inflict grievous injury on the land-owner, without benefiting the public, by cutting into his land, and then failing either to pay him or complete their authorized works.

"Injuriously affecting" seems to be in one sense a dealing compulsorily with property under the powers of the bill, inasmuch as, were it not for the powers conferred by the bill, the promoters would be clearly liable to an action at law; but the right of action being taken away by the intervention of Parliament for the public benefit, it has been provided that all persons injured shall be compensated, and the works can no more be constructed without such compensation than without compensating the owners of land actually taken, and ought therefore to be considered in preparing and inquiring into the estimates.

Companies formed under acts incorporating the Lands Clauses Consolidation Act, 1845, being compelled by that Act under certain circumstances to purchase more land than they require (s. 92), and being also (s. 127) required within ten years to absolutely resell all their surplus land, are entitled in preparing their estimates to allow for the probable proceeds for the resale of such lands, North London, Highgate and Alexandra Park Railway (R. p. 118). Surplus Land.

Where the promoters of docks claimed to be entitled to the whole of a certain foreshore, and provided no sum for its acquisition, the Referees reported that they were not in a position to decide whether the foreshore was or was not their property, *Bute Docks, Cardiff, No.* 1 (D. 63).

In one case the Referees reported that so much of a solid embankment as the Board of Trade might think fit should be made an open viaduct. They added that the estimate was sufficient for the *proposed* work, but that if the Board ordered any great amount of open viaduct, that it would be insufficient, *Whitehaven and Furness Junction Railway* (D. 62), but they gave no opinion of their own, whether much or little silting, so as to involve much or any open viaduct would take place, and in fact, appear to have left the Committee to deal with the matter as they might think fit. Conditional Report.

The Referees still maintain the old practice of not allowing more than general evidence as to value of land severance or houses, as it may be used adversely to the promoters on subsequent occasions.

If the estimate be insufficient, the bill will not be allowed to proceed further without leave of the house, S. O. 96. This rule is in some cases a hardship, especially where there are competing schemes, one of which, though in every other respect inferior to its rival which fails on estimate, may pass into law to the injury of the district; however, on the whole, giving more time for consideration, it probably will secure more perfect schemes, being ultimately carried out.

Waterworks Bills.

By S. O. 93, the Referees are directed to inquire, "In the case of Waterworks Bills, into the nature and amount of the existing and the proposed source of supply, as to pressure and proposed mode of service, the quality of the water in each case, and the provisions as to storage reservoirs."

The Referees have held that this paragraph of the standing order stands by itself, and has no reference to the first paragraph, Bute Docks, Cardiff (No. 2) Bill (R. p. 16), though, as will be seen hereafter there are grounds for doubting this decision.

Burthen of Proof.

Under this clause of the standing order, considerable doubt and difficulty has occurred, both as to practice and jurisdiction arising from the question, what is engineering within, and what is beyond, the province of the Referees, and also from the difficulty that the present rule as to onus of proof throws upon petitioners in this class of bills.

The petitioners, nearly invariably in these cases, are persons with whose supply of water it is sought to interfere and in the case of a commodity, like water of such vast and increasing value, and of which the quantity is so limited, they are certainly entitled to the highest consideration.

The first point upon which an issue may be raised, is as to the nature and amount of the existing source of supply, and on that, as well as on the subsequent head of pressure and mode of service; and it does certainly seem hard, that the petitioner, who has by far the least means of knowledge, should be obliged to come and prove in the first instance, that the facts on which the pro-

moters rely do not exist. The promoters say we want water, we have not sufficient supply, and we seek to deprive you of yours. Surely the petitioner may fairly say, "I do not believe in such want, and before you compel me to give up what I value, you must put yourselves in Court by proving it."

With regard to pressure and mode of service the petitioner is also very much in the dark, but he is not allowed to hear what the promoters' scheme is from their own lips, but must hunt out as best he may any blot in the promoters' scheme; and when it is hit, the promoters may then come and say, "True, what we propose is bad, and you have proved it, but we will now mend our hands." It would be exceedingly convenient were some such course adopted as that in use in a Court with which most members of the Court of Referees are acquainted, viz.—the Quarter Sessions, where in appeal cases the appellant is required to put himself in Court by proving certain facts peculiarly within his own knowledge, such as that notice of appeal has been duly given, after which the respondent proves his case. So here it is submitted that there would be both a saving of time and a greater security for justice being done between the parties, were some such rule devised by the Referees as to those and some other similar points.

Be that as it may, it is clear that any petitioner who seeks to raise any question on any of the points mentioned in standing order 93, must go before the Referees.

Comparison of source of supply.

With respect to the quality of the water, it is clear that the Referees have the power to inquire into the quality both of the existing and the proposed source of supply; but with regard to another, very important question—whether there is any other preferable source of supply available to the promoters than that proposed, there appears to be a conflict of decisions, for in the case of the *Cheltenham Water Bill* (D. 65) the Court, on evidence being tendered to that effect, considered that they were not at liberty to enter upon that inquiry, while in the case of the *Chesterfield Water and Gas Bill* (D. 65), they would seem to have done so, as they reported that the quality of water proposed to be supplied was *as good as could be procured in that locality.* The only safe course, therefore, will be to tender the evidence before the Referees, and if they should reject it, the petitioners will be in a position to claim a hearing before the committee on the bill.

The matters enumerated in the third paragraph of the standing order, are not among those named in S.O. 96 as being fatal to a bill.

Where it was proposed to legalize a weir and feeder and to take powers to supply ships and persons using a dock with water, the bill was held to be a water works bill, Bute Docks, Cardiff (No. 2) Bill (R. p. 16).

Gas Bills.

Burthen of Proof.

With respect to Gas Bills, the rule as to the right to begin, acts still more harshly than in the case of water. The matters to be inquired into are, "The quality of the gas, the existing supply and its price, the amount of pressure, the cost of production, the modes of testing the purity and illuminating power of the gas, and the proposed maximum price to be charged."

Now there is not one of these matters which is not in the absolute knowledge of the promoters, and some of them no other person can know anything about, as for instance, the exact quality, the amount of pressure, and cost of production.

These are matters on which promoters could give the required information at once, and petitioners not at all, or by going to a vast expense.

There is also the doubt which has been raised (see Select Committee on Referees, p. 16), as to whether engineering can in this case be considered. One Honourable Chairman was of opinion, that the Referees have no such jurisdiction in gas bills; and in his evidence he says, that an inquiry as to the laying of the mains, and as to the site of the gas works, whether they have to overcome a hill between the point of manufacture and supply, cannot be raised, and that the question of pressure never has been raised.

The ground for this opinion is as has already been noticed, that engineering details are confined to inquiries into the first paragraph of the standing order, which refers to bills of the second class; but he appears to have admitted, that water bills were not exactly in the same category with gas bills, although they are included in paragraph *two* of the standing order, and explains this by making a distinction between bills of the first and of the second class.

It is difficult to see that the Referees are not bound under the standing order, to inquire into the engineering details of all bills authorizing "the construction of works."

The Referees have to inquire into the sufficiency of the storage reservoirs, on which it is sometimes difficult to raise any question from petitioners being obliged to begin.

APPENDIX.

I.—Digest of Reports of Referees, Session 1865.

II.—Reports of Cases of Locus Standi, etc., Decided by the Referees, Session 1865.

The References at the bottoms of Cases in the Digest, are the Reports of Referees to Parliament.

APPENDIX.

SAINT CLEMENT DANE'S IMPROVEMENT BILL.

Petition of the Vestry of Saint Clement Danes.

Locus Standi—Parish Authorities—Rates—Insertion of Clauses in Bill.

In this case the Vestry of the Parish of Saint Clement Dane's, petitioned against the bill of the promoters, which proposed to make extensive improvements in the parish, without however showing the sanction of the Metropolitan Board of Works, on the ground that no provision was made in the bill for the payment of certain rates, while the proposed alterations and improvements were being executed. The material allegations in the petition were, "That a bill is now being promoted in your Honourable House, entitled the Saint Clement Dane's Improvement Bill, seeking compulsory powers to purchase a large portion of the houses and buildings on the north side of the Strand, in the Parish of Saint Clement Dane's to widen the said Strand, and to erect more convenient buildings on the site of the said buildings." "That although provision is made in the said bill for the protection of the paving, lighting, and cleansing rates, during the demolition of the existing, and erection of the subsequent buildings, yet there is no provision for the police, poor, or other rates, and land tax." "That the said bill is promoted purely for commercial purposes."

Hume Williams for the petitioners—This is a private company, seeking compulsory powers, in order to insure the success of private speculation; the principle of altering a bill has not been previously admitted and passed into law, the Act contains no provisions for rates and taxes within the control of the vestry and it is not competent

for the Court to order any alteration of the bill. The clause sought to be introduced is specially within the province of the vestry to claim.

Davison for the promoters—The clause asked for can be introduced, and a similar clause has satisfied the Metropolitan Board. If an opposition is admitted, it should be limited to the introduction of the clause asked for, and not be permitted to extend to general merits or details.

The Chairman urged opponents to accept the terms proposed.

Hume Williams replied he had advised the vestry to do so.

Ultimately, on the personal undertaking of *Davison*, that the clause in question should be inserted, the *locus standi* of the petitioners was disallowed.

BRECON AND LLANDOVERY JUNCTION RAILWAY—PETITION OF THE CENTRAL WALES EXTENSION RAILWAY.

(Mr. Hassard.)

Locus Standi — Deviation of Authorized Line breaking Connection between Railways, and avoiding Petitioners' Line — Locus Standi allowed.

The petitioners alleged, that as at present authorized the two lines would communicate at a common station; that if the proposed deviation were authorized the continuous communication would be broken up or made most inconvenient by the introduction of part of another company's line between them and promoters line, and that passengers and other traffic passing from one line to the other, would be subject to a third company's tolls.

The promoters objected to the *locus standi* of the petitioners on the grounds:—

1st. That the petition did not allege any competition between the promoters and the petitioners.

2nd. Nor that there were provisions for taking or using any part of the lands, railways, stations, or accommodation, of the petitioners, or for running engines or carriages upon or across the same.

3rd. Nor that any land, property, right, or interest of their's would be taken or affected.

4th. Nor that they had any such interest as entitled them to be heard against it.

Littler for the petitioners—The Brecon and Llandovery is a competing scheme with the petitioners, and was so treated by Parliament

when their Act (of 1863) was passed, and it was in that Act, by section 27, required that their railway should be so constructed as to communicate with the petitioners' line near its southerly terminus at the most northerly point reasonably practicable, thereby causing them the longest run over petitioners' line, and so as to afford to the petitioners the greatest facilities which could be obtained from a line, which was essentially a competing scheme, and also to afford them a convenient junction for traffic, coming from the neighbourhood of Brecon to Llandrindod Wells on petitioners' line, which is a watering-place of some celebrity; and in return, by clause 29, compelled the Central Wales Extension to complete that portion of their line within twelve months, which they have done, and for which portion the Brecon and Llandovery will have to pay toll.

The new scheme avoids our line altogether, and all traffic will either have to cross Llandovery by road, from their proposed new station, or to go round by a proposed junction with the Vale of Towy, which would be inconvenient to the public, and also subject it to that company's tolls. No doubt this state of facts does not show any competition, nor does it show any injury within S. O. 132; but we complain that we have been compelled to do our share of an arrangement sanctioned by Parliament in 1863, and to go to great expense as to a station intended for the Central Wales Extension, Brecon and Llandovery, and Vale of Towy, which the Brecon and Llandovery now seek to avoid. Perhaps we do not come within the standing orders, but the promoters have made a fatal admission; they say our interests are not interfered with, showing that if they are, we are entitled to be heard. We lose tolls, and our traffic is inconvenienced as already shown, and we also clearly have an "interest" such as is mentioned by them in their fourth objection. At the worst this is a *casus omissus*, and this Court has power to admit a petitioner where manifest hardship would be done, especially where excluding the petitioners will have a direct tendency to overturn an arrangement already sanctioned by parliament.

Salisbury for the promoters—The other side are compelled to admit that they do not come within the provisions of the standing orders.

Mr. HASSARD—No, they say at worst they do not.

The promoters clearly do not in any way affect the petitioners injuriously within the meaning of the words, which mean, physically affecting. If it is a *casus omissus* this Court has no power to remedy that.

By the COURT—The *locus standi* of the Central Wales Extension Company is allowed.

SOUTH LANCASHIRE RAILWAYS AND DOCK. PETITION OF TRADERS AND INHABITANTS OF WIDNES.

(Mr. Hassard.)

Locus Standi—Injuriously Affecting.

The petitioner's manufacturers sought to be heard, on the ground that the proposed Railway and Dock—some parts of which lay within three miles of Widnes—would, by attracting large ships to their dock, and by competition, prevent the development of the docks at Widnes, and of their works on which large sums of money had been expended, and damage the prosperity of the town.

The promoters objected to the *locus standi* of petitioners.

Martin (*Parliamentary Agent*) for the petitioners—The petitioners clearly have a *locus standi*. It cannot be said that a railway and dock which compete and enable other manufacturers of similar articles to compete, do not "injuriously affect" their town.

Littler for the promoters—These words must mean the same as the same expression in the Lands Clauses Consolidation Act, as relating to compensation for lands, *i. e.* physically affected, and this it is not pretended we do. If these persons are to be said to be injuriously affected because our dock is in a better position than their's, they and we (if authorized) might oppose any other new dock still lower down the Mersey, say at Birkenhead or Liverpool.

By the Court—the *locus standi* must be disallowed.

ABOYNE AND BRAEMAR RAILWAY.

(Mr. Adair.)

Road — Danger to Public — Jurisdiction of Referees.

The petitioners objected that the estimates were insufficient (on this they offered no evidence); that the line was laid out in such close proximity to a much frequented public road, passing up a narrow valley by the side of the River Dee, as to render the use of that road by persons with horses and carriages inconvenient and dangerous; that the road at one point passed close to a perpendicular cliff, of 50 feet over the river, composed of gravel, which was continually being washed away; and that in addition to the danger caused by the nearness of the railway, its construction would prevent the removal of the road further from the river if required; that at a narrow part of the valley there was a curve of 15 chains radius, so situated as to make it impossible to screen a train

coming up in the opposite direction from the sight of horses descending the road; and that the line crossed the Tullich Burn, a wild mountainous stream, formidable in winter, at a depth of 18 feet below the level thereof and in cutting, and that it was impossible to carry the Burn either under or over, except at a great expense.

The promoters replied, that the Burn could be lowered and carried under the line for less than £500; that by putting a screen in certain places, by the side of the road, and in others by the side of the railway, the view of the trains might be effectually prevented; and that at the point of passing the perpendicular cliff, the objections might be obviated by carrying the line further to the north, within the limits of deviation; and generally, that in a narrow valley, already traversed by a road and a river, it was not possible to carry the line otherwise than as proposed.

The Referees *reported*, that on the question whether the line can be worked as laid down without possible danger to the public, using the road in such close proximity to the railway and the river, they pronounced no opinion; but that it was proved to their satisfaction, that screens as proposed by the promoters could be erected, that there were no engineering objections to the line, and that the estimates were sufficient.

3rd April, 1865, *p.* 216.

NORTH BRITISH RAILWAY (ADDITIONAL POWERS).

(Mr. Hassard.)

Road—Level Crossing—Jurisdiction of Referees.

The promoters proposed, amongst other things, to carry two lines of rail across a road which they had heretofore crossed with a single line only.

To this the road trustees objected, alleging that this would be dangerous and tedious, and suggested that the road could be carried over the railway without increasing the gradient of the road 1 in 9½; but to do this would require an embankment above 15 feet high, with proportionate slopes, and one approach would run out above 150 feet.

The Referees *reported* that there were no engineering obstacles to laying the second line of rails, or to constructing the bridge, but that they did not consider it within their province to offer any opinion as to the propriety of carrying the road over the railway by the bridge.

28th March, 1865, *p.* 178.

LANCASHIRE AND YORKSHIRE RAILWAY (ADDITIONAL POWERS).

(Mr. Hassard.)

Road—Narrow Valley—Proximity of Line.

It was objected, that from about 1 m. 2½ furl., up to 1 m. 2⅞ furl., there was a curve of 12 chains in a deep cutting of 43 feet in some parts, and that at the termination of this curve, the proposed railway would come upon a turnpike road, and run parallel with it, on a slightly higher level, for about 60 chains, at a distance of only 30 yards.

The promoters replied, that the valley was only 60 yards wide, and that the proximity to the road could not be avoided.

The Referees *reported*, that the line could not well be carried in any other direction, but that a screen should be erected, and maintained, by the Company (if required) between the railway and the road.

6th April, 1865, *p.* 239.

LONDON AND NORTH WESTERN RAILWAY (NEW WORKS).

(Mr. Hassard.)

Intended Alterations of Existing Works obviating Engineering Objections.

It was objected that the gradient, 1 in 80 for two miles of a line near St. Helen's, was bad; and also that the line would cross on that gradient 13 pairs of sidings in the goods station there.

The promoters replied that they intended moving the goods station and sidings to other land, which they had purchased for the purpose.

The Referees *reported* that the line might be safely constructed in the way proposed by the promoters, and that there were no objections in an engineering point of view.

6th April, 1865, *p.* 242.

LONDON, BRIGHTON, AND SOUTH COAST RAILWAY (SAINT LEONARD'S LINE AND DEVIATIONS).

(Mr. Dodson.)

Concessions to Opponents.

It was objected by the Commissioners of Sewers, &c., for Pevensey, that the railway would be carried over the levels within their jurisdiction, over such unsound ground, that unless several culverts, varying in size, from 10 to 18 feet were made, the drainage would be materially affected.

The promoters expressed their willingness to make all the required culverts, except two of 15 feet each.

The Referees *reported* that these difficulties were readily to be surmounted, and that the provisions to which the promoters were willing to assent, would suffice for carrying off the water.

9th March, 1865, *p.* 57.

SPALDING AND BOURN RAILWAY.

(Mr. Hassard.)

Level Crossing — Concession to Opponents.

This line was objected to on the ground that it was proposed to cross the Bourn and Essendine Branch of the Great Northern Railway upon the level, about 10 chains from the Bourn Station, at the foot of a descending gradient of 1 in 100 towards the proposed crossing, and where that line is in a cutting of 5 feet, and on a curve of 20 chains radius, the proposed railway having at that point a descending gradient of 1 in 78.

It was answered that the proposed line could not be carried over or under the Bourn and Essendine line; but in order to avoid danger, it was proposed to construct a blind siding, with self-acting points, which would turn any train coming down the incline into such siding, instead of allowing it to cross the Bourn and Essendine line; and that the control of the points would be in the hands of the Great Northern Company.

The Referees *reported*, that with these provisions there were no engineering objections.

28th April, 1865, *p.* 286.

SWANSEA VALE AND NEATH AND BRECON JUNCTION RAILWAY.

(Mr. Hassard.)

Interference with Sewers — Concession to Opponents — Swing-Bridge.

This bill was opposed by the Mayor, &c., of Swansea, on the ground of stopping up two of their public roads, and of interference with their sewers, drains, and water mains; but the promoters explained that they intended to cross one street by an arch of 12 ft. clear headway, and the other by one of 70 ft. span, and also offered not to disturb the existing system of sewers, drains, and water mains,

until substitutes should be provided to the satisfaction of the petitioners' surveyor. The Vale of Neath Company objected that the making of the proposed junction with the Swansea and Neath Railway would be incompatible with its safe working at a swing-bridge close to such junction, which was open at irregular periods for four hours each tide. At this bridge, the Board of Trade had, for the prevention of danger to the trains on the Swansea and Neath Railway, required that points should be put in in such a manner, that trains coming towards the bridge are deflected into a curve, instead of passing forward to the bridge, unless the points are expressly altered to allow of their passage on to it, it was admitted that the proposed works would take away this advantage, and the danger of accident in passing the bridge would be augmented, but with care and great attention the junction could be worked. The Referees *reported*, that subject to such explanation and undertaking, there were no engineering objections as regards the said Mayor, &c., to the proposed line. As to the Vale of Neath Company's objections, simply, that "subject to these observations there are not any engineering objections."

17*th May*, 1865, *p.* 372.

VALE OF NEATH RAILWAY (SWANSEA LINES).

(Mr. Hassard.)

Total Occupation of Towing Path—Reservation by Referees of Portion for Public—Concession to Opponents.

It was objected by the Swansea Harbour Trustees, that the promoters proposed to cross certain low level railways and a carriage road of the petitioners upon the level; and also, that it was proposed to acquire certain towing paths.

The Referees *reported* that there was a considerable increasing traffic on the low level railways worked by horses, but that as the proposed railway was merely a siding to a proposed goods station, trains could never be run over it at any speed, and that as the control of the crossing and signals would be in the hands of the petitioners, there were no engineering objections to the proposed line: that the towing path being that used by vessels proceeding to the North Dock and the River Towy, it was necessary that free use of a towing path, at least 16 ft. in width, should be preserved to the harbour trustees and the public.

16*th May*, 1865, *p.* 367.

GREAT WESTERN RAILWAY.

(Mr. Hassard.)

Approaches—Concession to Opponents.

The petitioners, landowners, objected that a private road and public footway now crossed upon the level by the North and South Junction Railway, would be rendered useless, and that the approach to certain parts of the petitioner's estates, by means of a bridge over the Great Western Railway, would be blocked up and destroyed.

The promoters in reply suggested, that the private road and footway could be carried under the proposed railway, and the North and South Junction Railway near the northern end of the proposed railway, and that the access to the said portion of the petitioner's estate could be maintained by the erection of a bridge over the Great Western Railway to the west of the existing bridge.

The Referees *reported*, that the petitioner's complaint was well founded, and that the engineering details of the proposed railway would be defective unless works of the kind proposed were provided.

6*th April*, 1865, *p.* 243.

HAVANT, HAMBLEDON, AND DROXFORD RAILWAY.

(Mr. Dodson.)

Junction — Removal of from Point on Deposited Plans within Limits of Deviation.

It was objected that the proposed junction of the promoters' line with the petitioners, and a proposed diversion of a turnpike road, would necessitate the construction of a skew-bridge in place of a square one on the authorized Petersfield and Bishop Waltham Railway, where it crosses a turnpike road at an increased expense to the petitioners, for the sole benefit of the promoters, to which it was replied and proved, that the limits of deviation would admit of the junction being made lower down on the petitioners' line, and that such a junction would enable the promoters to enlarge the piece of level of their line on which the junction was formed from 100 to 232 yards, and also to divert the turnpike road without any interference with the petitioners' bridge.

The Referees *reported* that the latter arrangement was preferable in an engineering point of view.

3*rd March*, 1865, *p.* 45

BURTON-UPON-TRENT AND NOTTINGHAM RAILWAY.

(Mr. Hassard.)

Obviation of Objections — Junction — Deposited Plan — Removal of Points — Jurisdiction of Referees.

It was objected to Railway No. 1, that it was intended to appropriate one of the arches of the bridge carrying Hawkin's Lane, in Burton-upon-Trent, over the Midland and North Western Railways, this bridge having been built by the Midland Company, and the said arch reserved for their own use. The promoters avowed this intention, but alleged if not permitted to do so, they could effect their purpose by constructing another arch under Hawkin's Lane, which could be done without altering its level.

It was also objected, that No. 1 would be carried so near to the North Staffordshire Railway as to interfere with its slopes, that near Radcliffe it crosses the Midland Railway by a bridge having a headway of only 16 feet from rail to rail, but it was shown that by a slight alteration sufficient headway can be given; and that its junction in Nottingham with the North Western Railway was shown on the plan to be effected upon a girder bridge, carrying the Great Northern Railway over the Midland Railway, with a span of 90 feet, and that to effect such junction it would be necessary to cut through one of the side girders of such bridge; but in reply to the last objection it was stated, that the junction was not intended to be effected upon the bridge but at the south end thereof.

It was objected to No. 3 Railway, that it could not be constructed as proposed, so as to pass under the North Staffordshire Railway, leaving sufficient heading, but it was replied that No. 3 would there be on a gradient of 1 in 1016, and the point of crossing being 600 feet from its junction with the London and North Western Railway, by making the gradient a little more steep, but still being less than 1 in 500, ample headway could be provided.

To No. 4 it was objected that it was intended to form a junction with the Midland Railway, at a point where the latter is carried over a road called the Meadow Lane Road, in the town of Nottingham, upon the level, to which it was replied that it was not intended to form the junction upon the road, but at a point south of it, and to run over the road upon the existing Midland Lines, powers to use which were sought in the bill.

The Referees *reported* that it would be preferable in an engineering point of view that the arch of the Midland Railway should not be inter-

fered with; that the interference with the North Staffordshire could be obviated by the use of retaining walls, where necessary, and that there was ample room for both lines; and that if the junction of No. 1 were effected at the south end of the bridge, there would be no engineering objection, but as to whether the promoters could depart from the point of junction shown upon the deposited plan, was not for them to decide, being a question of law or clause.

3rd April, 1865, *p.* 217.

KING'S LYNN DOCKS AND RAILWAY.

(Mr. Adair.)

Junction — Powers of Bill — Jurisdiction of Referees.

On the objection of the Great Eastern Railway Company.

The Referees *reported*, that a junction with the Harbour Branch of the Great Eastern Railway might easily be made in an engineering point of view, but declined to express any opinion as to whether the promoters took power by their bill to effect the same.

13th March, 1865, *p.* 73.

BISHOP'S CASTLE RAILWAY (EXTENSION TO CRAVEN ARMS).

(Mr. Hassard.)

Junction — Deposited Plans — Remedying Defect — Providing for Reservoir Destroyed.

If compelled to make their junction at Knighton, at the point shown on the deposited plans, it was proved that the promoters could only reach the platform of the Shrewsbury and Hereford Company, which is also used by the Knighton Company, at Knighton Station, by running along the main line of the Knighton Railway, and making a back shunt to the platform, and that they had taken no powers to use any part of the Knighton Railway, but only the Shrewsbury and Hereford Station. The petitioners also alleged that the proposed line would interfere with and prevent the construction of a reservoir much needed at the station on the west side of the Knighton Railway. It was however proved, that other land could be procured by the promoters in the immediate vicinity of the proposed reservoir.

The Referees *reported*, that the first objection, if not remedied, was an engineering defect, but that subject to the foregoing there were no defects in an engineering point of view.

30th March, 1865, *p.* 194.

EVESHAM AND REDDITCH RAILWAY.

(Mr. HASSARD.)

Span of Bridge — Gradients and Sidings — Improvement of Scheme before Referees.

THE Great Western Railway Company complained that No. 1 Railway crossed the main single line and two sidings of their Honeybourne and Stratford Branch, by an arch of 26 feet span only, and that line No. 3, crossed the sidings leading to a goods station, turntable, and sidings, of their's, upon an embankment of 4 or 5 feet placed upon the rails of the sidings.

The promoters' engineer admitted, that the span of the bridge was insufficient, and offered to increase it to 40 feet, and also explained to the Referees that by commencing his gradient towards the station (which on the deposited plans is 1 in 100), some chains further off, the line could be formed so as to cross the sidings on the level of the rails.

The Referees *reported*, that if the bridge were increased to a span of 40 feet, and the sidings were crossed on the level, there would be no engineering objection to these railways.

14*th March*, 1865, *p.* 85.

EDINBURGH AND GLASGOW RAILWAY (No. 2).

(Mr. HASSARD.)

Injuries to Streets and other Schemes — Concessions to Opponents.

IT was objected by the Corporation of Glasgow, that the promoters proposed to stop Hunter Street, Glasgow, the main connecting street between Duke Street and the Gallogate, two leading thoroughfares, there being no other street between it and High Street (distant 600 yards) and to substitute a new street 166 yards further east, in Gallogate, and 60 yards further east in Duke Street, than Hunter Street, and so much the more distant from High Street; that by the construction of the railway, the proper sewerage of the district to the north would be prevented; and that the markets would be injured. The Forth and Clyde Navigation complained, that the carrying the proposed railway under the spans

of their Drumpeller Viaduct would prevent them from improving the connection of their Drumpeller Railway, with their canal, and also that the spans (30 feet) of the arches by which it was proposed to carry the railway over their canal were insufficient.

The Referees *reported* that from the line being in cutting where it crosses Hunter Street, and the authorized works of the Glasgow Union Railway, it would be impossible to carry Hunter Street either under or over the proposed line, and that there were no engineering objections to its construction in the manner proposed; that by constructing an intercepting sewer at the north side of No. 1 Railway, the drainage could be completely preserved; that the promoters had agreed that the proposed railway should be carried through the markets in a tunnel or covered way, which would obviate all objections; that they had also agreed that the railway, where it crosses the Drumpeller Viaduct for a distance of 90 feet from each side of the same, should be constructed wholly to the south of a burn, marked No. 59 on the plans, with which the petitioners were satisfied; that the canal bridges should be of a span of 36 feet, leaving a clear waterway of 30, exclusive of the towing path; and that with these alterations there would be no engineering objections.

15*th May*, 1865, *p.* 359.

FULHAM RAILWAY.

(Mr. Hassard.)

Junction—Injury to Opponents Railways — Alteration of Point of Junction whilst before Referees.

The London and South Western Railway Company objected, that Railway No. 2, if the Junction thereby proposed, were effected as laid down on the deposited plan, would debar them from using a portion of the Hammersmith and City Railway, which they were entitled to use, and also from the use of a joint station.

The promoters offered to effect their junction at a point 6 chains south of the point laid down on the plan with which the petitioners expressed themselves satisfied.

The Referees *reported* that there were no engineering objections.

21*st March*, 1865, *p.* 127.

OKEHAMPTON RAILWAY,

(Mr. Hassard.)

Injury to Competing Line already Authorized — Concessions — Powers of Bill.

The Launceston and South Devon Railway objected that Railway No. 1 would interfere with the construction and enlargement of their railway, being laid down for 5½ miles, in close proximity to their railway, occupying, in some places, the actual site thereof, and passing under the bridges constructed by them for their own use, and over lands purchased for doubling their line; and that at Mary Tavy, the proposed line, would pass between the station now being erected by the petitioners and their railway.

The promoters in reply alleged, that they could construct their line as a single line within their limits of deviation, except at Mary Tavy station, through which they admitted they must pass.

The South Devon Railway complained that Railway No. 3 would interfere with the works, station, and sidings of their railway at Tavistock, which the promoters admitted, but offered to obviate by a slight deviation. They further complained, that Railway No. 7 descended towards the south with a gradient of 1 in 60, that it then crossed the main street leading from the east into Plymouth, and shortly afterwards descended with a gradient of 1 in 40, to within 3 chains of its termination near the water side.

The Referees *reported*, that No. 1 could not be constructed without infringing upon and rendering impossible the intended second line of the petitioners; that the promoters could not construct their line between the petitioners' existing line and the cemetery near Tavistock, and that they would also most probably have to make use of the bridges constructed by the petitioners for their double line of railway, as otherwise, in order to pass under the roads which cross over both lines, it might be necessary to alter the gradients of the approaches to the bridges, to do which, no powers are taken in the bill; that the moving of the Mary Tavy Station to the opposite side of the railway, would be attended with much inconvenience; that the gradient in Plymouth, being so near the terminus, was very objectionable, and that subject to the foregoing observations, there were no engineering obstacles.

16*th March*, 1865, *p.* 92.

GLASGOW CITY SUBURBAN AND HARBOUR RAILWAY.

(Mr. Adair.)

Concessions to Opponents—Junction—Removal of from Point in Deposited Plans within Limits of Deviation—Powers of Bill.

It was objected that a junction was proposed on the City of Glasgow Union Railway, and that there was a difference of levels before the two lines could clear each other of between two and three feet; that diverting Blackfriar Street, as proposed on the bill, would destroy one approach to their goods station; and that the line would render useless the southern entrance to their station from High Street.

It was replied, that the line was devised to do as little injury to the petitioners' line as possible; that Blackfriar Street was diverted only 400 yards; that the gradient of the proposed new street would be good; that the closing of the southern entrance could be obviated by carrying the proposed line in tunnel; and that the junction could be effected within the powers of the bill, by carrying it to the extreme point of the limits of deviation on land scheduled, and by raising the promoters' line to an extent not exceeding the limits laid down in the general act.

The Referees *reported* that all important interference with the property and goods stations of the petitioners, might be practically avoided, but that the junction could not be constructed under the powers in the bill.

29th March, 1865, *p.* 186.

OGMORE VALLEY RAILWAYS (No. 1).

(Mr. Adair.)

Junction—Sidings—Legal Powers.

It was objected that railway No. 1 proposed a junction with the Ely Valley Extension (broad guage line) at a turning point of gradients, and was therefore dangerous. That railway No. 3 (a narrow guage line) ran parallel with the existing Great Western (broad guage) line, and was not necessary; that railway No. 3, at the junction with the Ely Valley Railway could not be made according to the deposited plans; that railway No. 5, proposed to join the Great Western with a falling gradient of 1 in 76, close to the junction

point of the Llantrissant and Taff Vale, which comes down to the junction on a falling gradient of 1 in 40; to bisect the sidings of the Llantrissant and Taff Vale Railways, which are legally laid down on the level, and where the passenger traffic of the Llantrissant and the Ely Valley lines would pass according to the requirements of the Board of Trade, the Llantrissant Company having no power to alter their sidings.

The promoters replied, that the gradient of No. 1 was, under the circumstances good, that the junction was practicable, that the Ely Valley Extension had the power and the intention to lay down a third or narrow guage rail, that No. 3 was for through *narrow* guage traffic, and therefore, though parallel to an existing line, was necessary, and that it could be made, and by arrangement improved, and that the sidings referred to were not legally there, and could be shifted by arrangement.

The Referees *reported* that there were no engineering objections to No 1; that No. 3 could not be made at the point of junction with the Ely Valley Extension, under the powers of the bill; and that No. 5 proposed to join the sidings in an objectionable manner if the sidings were legally in their present position, and was defective in an engineering point of view. The referees abstained from expressing any opinion whether the sidings were or were not legal.

19 *May*, 1865, *p.* 420.

LAUNCESTON, BODMIN, AND WADEBRIDGE JUNCTION RAILWAY.

(Mr. Hassard.)

Junction—Doubling Opponents' Line—Concessions—Legal power to effect the same.

This was a bill for making a line to the Cornwall Railway at Truro.

The Cornwall Railway Company objected, and it was proved that the junction at Truro would prevent the widening of their viaduct there if they should require to double the existing single line.

The promoters suggested that a junction could be effected within the limits of deviation, by moving the point two chains further to the west of the point shown on the deposited plans, and so by shifting the line to the north, permit the Cornwall Railway to be widened.

This could be physically effected, but would lengthen the line by two chains, and would also shift the point of Junction from that shown on the deposited plans.

The Referees *reported* that it was extremely doubtful whether this alteration could be legally executed without the consent of the Cornwall Railway Company; but that they were not competent to determine this point.

18*th May*, 1865, *p.* 375.

LLANTRISSANT AND TAFF VALE JUNCTION RAILWAY.

(Mr. Adair.)

Junction—Facing points—Concession to Opponents—Powers of Bill.

Railway No. 1 proposed to join the Taff Vale Railway on a gradient of 1 in 40—the gradient of the Taff Vale at that point being 1 in 290. Railway No. 2 proposed to join the Ely Valley Railway on a descending gradient of 1 in 50—the gradient on the Ely Valley at that point being 1 in 84.

It was objected that in order to effect a practicable junction on No. 1, the gradient of 1 in 40 must be altered to 1 in 37, which would occasion an alteration in the level of 7 feet per mile, whereas 5 feet per mile is the utmost alteration allowed, and that consequently no junction could be effected at this point; and that the junction on Railway No. 2 could not, in consequence of the difference of the gradients, be effected without making a divergence beyond the limits shown on the deposited plans and sections.

The promoters replied, as to the junction on Railway No. 1, that inasmuch as no facing points are allowed on the Taff Vale Railway, they proposed to join that line by a back shunt, which they alleged that they had power to do by extending their line beyond the limits shown on the deposited plans, and upon lands scheduled (the proposed works being works of convenience, and not portions of the main line); and as to No. 2, they proposed to effect a junction in a similar manner, which they alleged they had power to do.

The Referees *reported* that the junctions, according to the deposited plans, could not be effected without the insertion of facing points, and that that would be objectionable in an engineering point of view, and further, that the mode proposed to obviate the difficulty could not be effected under the powers of the bill.

19*th May*, 1865, *p.* 422.

BRECON AND MERTHYR TYDFIL JUNCTION RAILWAY.

(Mr. Adair.)

Junctions—Great Care being requisite, not an Engineering Defect under Circumstances—Deposited Plan—Alterations—Powers of Bill—Affecting Canal.

It was objected, that in consequence of the porous and shifting nature of the soil, the proximity of the proposed railway to the Glamorganshire Canal (in some places only 50 feet intervening) and from its being for about 1 mile and 77 chains below its level, serious danger was to be apprehended to the canal from leakage, and from the slipping of the banks, both during its construction and after its completion; that inasmuch as at the proposed junction with the authorized Brecon and Merthyr Railway, the point of junction corresponds with the limits of deviation, and as there is a difference at that point of 2 feet 6 inches in level between the proposed, and the authorized lines, a practicable junction cannot be made within the limits of deviation; and that a proposed junction with the Great Western Railway at Aberdare, was an improper curve on which to approach a station, on the ground that it joined the existing line at the end of a viaduct, on a curve of 10 chains radius, the proposed line being for a great part of that curve in cutting.

The promoters stated, that whatever may be the nature of the soil, no danger need arise to the works of the canal, if proper precautions be used in the construction of the proposed railway; that by building retaining walls (for which they have provided on their estimates) in those portions of the line where the proposed railway is in cutting below the level of and close to the banks of the canal, the danger arising from the leakage of the water, or slipping of the banks would be avoided; and that during the construction of the bridge under the canal, no interference would be caused to the traffic; that the junction of the proposed railway with the authorized Brecon and Merthyr Railway, although impracticable as shown upon the deposited plans, could be effected under the powers of the Bill, and of the Act of the authorized Brecon and Merthyr Railway; that the curve of 10 chains radius at the point of junction with the existing Aberdare Branch of the Great Western Railway was not one of unusual severity; that in the present case, without making a new viaduct, or altering the canal, no better junction could be made, and that the objection to the line being in cutting on a

curve would be in part removed by constructing sidings thereon, which would open and improve it.

The Referees *reported,* that considering the heavy character of the proposed works, and the porous and unstable nature of the soil, more than ordinary care would be required in the construction of the proposed railway; that even under those circumstances, the execution of the works would necessitate, in certain cases, a deviation of the centre line, and the construction of retaining walls to a considerable extent (possibly of an aggregate length of 3 miles), but that the execution of the proposed works was a question of expense for which sufficient provision had been made in the estimates.

With regard to the proposed Junction, the Referees were of opinion, that although there was no engineering objection to the Junction with the Aberdare Branch of the Great Western Railway, yet, owing to the position of the viaduct and the radius of the junction curve, great care would be required in working the traffic at this point, and that the junction with the authorized Brecon and Merthyr Railway could not be effected under the powers of the bill.

19*th May*, 1865, *p.* 425.

SWANSEA AND ABERYSTWITH JUNCTION RAILWAY.

(Mr. Adair.)

Junction—Alteration of Gradients—Facing Points on Single Line.

It was objected that a proposed junction with the authorized line of the Swansea and Aberystwith Railway, at a point where there would be gradents of 1 in 125, falling in opposite direotions towards the junction, could not be made under the powers of the bill; that the proposed line then ran for 3 miles with only a ditch between it and the line of the Vale of Towy Railway Company, so that, as sidings could not be placed on both sides they would be two-one sided railways; that as both lines would run nearly on a level and intersecting farms, the accommodation and other roads would be inconvenient and dangerous; that the Lampeter Road, by which all the traffic from the North is conveyed to the Vale of Towy Railway, and which is the only means of communication for miles with the south side of the vale, was to be crossed on the level.

The promoters admitted that the junction could not be formed according to the sections on the deposited plans, but they maintained that the gradients of the proposed lines might be altered under the powers of the Railways' Clauses Act, so as to enable the junction to be made.

The Referees *reported*, that the petitioners objections were well founded in fact; that the proposed junction with the Swansea and Aberystwith Railway could not be made in accordance with the deposited plans; and further, that a proposed junction with the Vale of Towy Railway, three-quarters of a mile south of Llandovery was at a point where the proposed deviation line of the Brecon and Llandovery Railway also joins it, and that as the main object of the Swansea and Aberystwith Junction Railway was to form a communication with the said deviation line, this junction would involve two sets of facing points on a single line, which in the opinion of the Referees was highly objectionable.

19th May, 1865, *p.* 419.

ELY AND OGMORE VALLEYS JUNCTION RAILWAY.

Junctions — Amendments — Powers of Bill — Efficiency of Works for Proposed Object.

It was objected, that the proposed railway was badly laid out, and ill-adapted to the mineral traffic of the district; that the gradients and curves were bad, and that the estimates were insufficient; that the proposed railway passed under the Ely Valley Extension Railway in an objectionable manner, so as to obstruct the making of any other railway at that point, and that it joined the Ely Valley Railway with bad gradients and curves. In support of these allegations, evidence was offered; that the junctions could not be made according to the deposited plans; that Branch No. 2 would necessitate the lowering of that line at the point of junction with the main line, and that the proposed alteration of level would cause a considerable increase of earthwork at the point of junction with the main line, and consequently affect the estimate; that Line No. 1 should have joined the Ely Valley Extension Line instead of passing under it in a deep cutting, interfering with the only ground for sidings at that point; that the junction might have been effected by deviating the proposed line within the limits of deviation, which would have saved the promoters the making 60 chains of railway,

and given them better gradients, and that the increase of earthwork in embankment would not have been more expensive than the cutting as proposed, and for which the embankment would be substituted; that according to the line as deposited by the promoters, traffic going west from the Ely Valley Extension Railway would descend to the Gellyrhaid Branch, and then have to be shunted back up a gradient of 1 in 44, and that the estimate was insufficient for the work proposed.

In answer to the above allegations, the promoters stated that the proposed junction No. 1 could be executed under the powers of the bill, that junction No. 2 could be made with the existing single line of the Ogmore Valley Railway, by extending the proposed point of junction to the limits of deviation, and by lowering Branch No. 2 from the point of junction with the main line, and that a practicable junction of No. 2 with the main line could be constructed; that the junction of their line with the Ely Valley Extension Railway would necessitate the construction of 313,000 cubic yards of embankment, and that the proposed interference with the sidings of the Ely Valley Extension Railway could be obviated by transposing the sidings from the north to the south side of that line; that the traffic going west, which would require to be shunted back on 1 in 44 is very small in amount, that the western traffic seeking access to the ports of shipment would be well served; that if a junction was effected with the Ely Valley Extension Railway, the traffic would be subjected to the short distance clause of that railway, and that the estimate was sufficient for the construction of the works sought to be authorized by the bill.

The Referees *reported* that junctions Nos. 1 and 2 could not be made under the powers of the bill; and that, although the lowering of the main line at the point of junction with branch No. 1 would involve further earthworks, there was no engineering objection to such work: that the estimate is sufficient, but that the works as laid out were not efficient for the object proposed—the accommodation and through lead of the traffic coming from the Ogmore Valley Railway and Ely Valley Extension Railway—inasmuch as the proposed railway does not join the Ely Valley Extension Railway, and interferes in a most prejudicial manner with its siding ground; that the proposed junction arrangement with the Gellyrhaid Branch of the Ely Valley Railway would prejudicially affect a not unimportant traffic from the Ely Valley Extension Railway seeking a western destination, and that therefore, the proposed railway was objectionable in an engineering point of view, and that the works were not efficient for the object proposed.

19*th May*, 1865, *p.* 423.

BEDFORD, NORTHAMPTON AND WEEDON RAILWAY.

(Mr. Hassard.)

Bridge Obstruction to Signals—Junction on Crowded Line—Into Sidings—Crossing on Level—Powers of Bill—Arrangements with Authorities.

It was objected by the London and North Western Railway Company, that a proposed over-bridge, near Weedon Station, would offer an additional impediment to that caused by an existing over-bridge, to a driver from the north seeing the signals in Weedon Station, and that the line ought therefore to be be deviated; that the over-bridge, if made, should be wide enough to accommodate 6 lines of rail under it (to this the promoters acceded), that having 23 passenger and 72 goods trains, running through Weedon daily without stopping, the proposed junction at Weedon, being on a curve of 13½ chains radius on a descending gradient of 1 in 96 and chiefly in deep cutting was objectionable; and that it was proposed that the railway should cross Cow Lane, Northampton, at two feet below the existing level of the street, but no provision was made for crossing the same on the level, and that to take it under or over the railway, would require approaches steeper than the present gradient, for which no powers were taken in the bill. In reply the promoters said, that an agreement had been come to with the street authorities of Northampton, to divert Cow Lane, and take it under the railway, with a gradient of 1 in 13.

The Referees *reported*, that the over-bridge, if made, would be a very slight impediment, the signals being at a very considerable elevation; that the proposed deviation would involve crossing a road upon the level for which no provision had been made in the bill; that having regard to the proved traffic and the nature of the proposed works, the junction ought not to be permitted with the main line, but either with the sidings of the London and North Western Railway, or with sidings to be constructed by the promoters, and for which they have scheduled sufficient land; and that as regards Cow Lane, without some such arrangement as that proposed, the railway could not be constructed; and that as the Referees had no power to deal with the same, they must report that as the bill stood it could not be constructed, but if such arrangement could be carried out, there would be no engineering objection to that part.

10*th March*, 1865, *p.* 67.

POOLE AND BOURNEMOUTH RAILWAY.

(Mr. Adair.)

Junction—Concession to Opponents reported against when consent of Board of Trade necessary.

It was objected that this line proposed to join the Southampton and Dorchester, which at the point of junction is on a gradient of 1 in 348, with a rising gradient of 1 in 60; and as it was proposed to effect the junction with a curve of 70 chains radius, which would require a space of 6 chains for the works of the junction, such junction, if made at the point specified in the plans, would be effected partly upon the gradient of 1 in 60, which is irreconcilable with the gradient of the line to be joined 1 in 348.

The promoters offered to obviate this difficulty by altering the curve at the actual junction to one of 15 chains radius.

The Referees *reported* that this could not be done, having regard to the 14th section of the Railways Clauses Consolidation Act, without the consent of the Board of Trade, and that the proposed junction was bad in an engineering point of view.**

7th March, 1865, *p.* 53.

** This section enacts as follows:—

And it shall not be lawful for the Company to deviate from or alter the gradients, curves, tunnels or other engineering works described in the said plan or section, except within the following limits, and under the following conditions: (that is to say),

Subject to the above provisions in regard to altering levels, it shall be lawful for the Company to diminish the inclination or gradients as follows: (that is to say), in gradients of an inclination not exceeding one in a hundred, to any extent not exceeding ten feet per mile, or to any further extent which shall be certified by the Board of Trade to be consistent with the public safety, and not prejudicial to the public interest; and in gradients of or exceeding the inclination of one in a hundred to any extent not exceeding three feet per mile, or to any further extent which shall be so certified by the Board of Trade as aforesaid.

It shall be lawful for the Company to diminish the radius of any curve described in the said plan to any extent which shall leave a radius of not less than a half mile, or to any further extent authorized by such certificate as aforesaid from the Board of Trade.

It shall be lawful for the Company to make a tunnel, not marked on the said plan or section instead of a cutting, or a viaduct instead of a solid embankment if authorized by such certificate as aforesaid from the Board of Trade.

GLASGOW AND SOUTH WESTERN RAILWAY (ADDITIONAL POWERS).

(Mr. Hassard.)

Injuriously Affecting Opponents' Works — Altering Bill.

Five trading firms complained that the stopping of a street proposed by the bill, would destroy the existing communication with their premises.

The promoters replied, that although the communication with the whole of J. H.'s premises and half of M.'s would be destroyed, yet communication might be given to the others, by a proposed new street.

The Referees *reported* that the works would have the effect complained of; that there were no powers in the bill for making the proposed new street, and that if constructed, it would afford a less convenient access for H. C. & Co., and B. & Co., and would not give any access to M. & Co., unless a portion of the street were excepted from the operation of the bill.

17*th May*, 1865, *p.* 373.

CALEDONIAN RAILWAY (BALERNO AND PENICUICK BRANCHES).

(Mr. Hassard.)

Danger to Petitioners' Gunpowder Mills—Concession to Opponents—Junction under Control of Promoters.

The petitioners, Messrs. M. objected to the manner in which it was proposed to pass their gunpowder mills. To obviate these objections, the promoters offered to cover over the railway, while passing near these works, and to deviate a private road of petitioners, which they proposed diverting in such manner as should be directed by Messrs. M.'s engineer, and with this the petitioners expressed themselves satisfied.

The North British Railway Company, objected to a proposed junction near Slateford Station, within 10 chains of a descending gradient of 1 in 110.

The Referees *reported*, that having regard to the fact, that the junction was to be effected with the line of the Caledonian Company, and that the signals were entirely under their control, there were no engineering objections to the proposed junction.

27*th March*, 1865, *p.* 175.

BARNET, HENDON, HAMPSTEAD & LONDON RAILWAY.

(Mr. Dodson.)

Concessions to Opponents—Competing Scheme not yet Authorized occupying same Ground—Gradients.

It was objected by the lessee of a building estate, laid out for first-class residences, that the residential character thereof would be totally destroyed, for which injury he was advised that he would have no power of enforcing compensation by law beyond the injury done to the property actually taken by the railway, and that sewers made by him, under private roads, would be interfered with, such sewers not being within the 58th section of the Metropolis Local Management Act. The promoters replied, that the vestry of St. John's, Hampstead, were the custodians of these sewers, and that they had been arranged with for other and equally efficient sewers. They offered, as regards residential damage, to deviate the line so as not to interfere with certain ornamental planting, and also said that much of the line would be in covered cutting.

The Metropolitan and St. John's Wood Railway Company objected, that Railway No. 1, would pass through lands required for the construction of their Hampstead Extension,* would cross under the extension line with only 11 feet headway in one place, and with only 10 feet in another, a height insufficient for locomotives and carriages; that to obtain the requisite height of 14 feet, must interfere with the gradient of the Hampstead Extension, which was 1 in 27; that line No. 2 was 36 chains in length, on a gradient of 1 in 60, falling towards the point of junction in a tunnel for 18 chains, and proposing to effect a junction by a curve of 12 chains radius with their railway, where the gradient was 1 in 100, and on the wrong side of the permanently defined station as regarded the use of signals which would be arranged for the service of the Hampstead Junction (*quære* Extension) Railway, which would come in at the other end, thereby endangering the traffic on the Metropolitan and St. John's Wood Railway; that the junction could not have any external light, being under a public road, which was so objectionable that the Metropolitan Railway Company were actually going to great expense to supersede an authorized junction with the Great Northern Railway, solely because it was in the dark; that No. 1 joined the sidings of the London and North Western Railway, which were already

* A line of this same Session reported on by the Referees, 17th March, p. 109. *Post* p. 43. R. D. M. L.

over-crowded with traffic, on a falling gradient of 1 in 60, and a curve of 15 chains radius.

It was replied that more head room might be obtained by altering the gradient of the promoters line where it passed under the petitioners, and that if the extension line were not sanctioned, the former would become the Hampstead Line; that the junction was on the level on the Metropolitan and St. John's Wood, and that the promoters' line was level for 3 chains; that the junction in the dark was not more objectionable than many open air junctions approached by curves, and through cuttings and buildings, which obliged reliance on signals; that an exchange station could be made on the promoters' line which would be as convenient as the petitioners, if that was definitely fixed; that the junction with the London and North Western was the best practicable one, being at the end of Primrose Hill Tunnel, in the open, and on sidings of considerable extent; that the complicated arrangements of railways near London, make this junction in the open on the sidings of the London and North Western better than a junction with the main line; and that the junction with the Metropolitan and St. John's Wood could be safely made in an engineering point of view, and both lines efficiently and safely worked.

The Edgware, Highgate, and London, objected that the Barnet junction with the Great Northern Railway was by a curve of 10 chains radius, from a rising gradient of 1 in 65 on promoters' line to a falling gradient of 1 in 40; and that the Finchley junction with their line was by an ascending gradient of 1 in 57 for 28 chains, and at a point intermediate between Finchley and Mill Hill Stations. It was replied that the Barnet Junction, was for a short distance, on a gradient of 1 in 200, was mainly for coal, though efficient for passengers, and that the Finchley Junction could be safely worked.

The Referees *reported* that there was no valid engineering objection.

13*th March*, 1865, *p.* 69.

WOOD GREEN, WINCHMORE HILL, AND ENFIELD RAILWAY.

(Mr. Adair.)

Two Proposed Schemes Occupying same Ground, not an objection to either—Junctions—Facing Points on Main Line.

The Great Eastern Railway Company objected that Railway No. 1 crossed a projected line of their's, within one foot of the level thereof; that No. 2 passed close to their Enfield Branch, at a level crossing,

which would consequently require to be doubled ; that by Railway No. 3 it was proposed to make a double junction with their Ordnance Station, with facing points on one of their main lines, and that the crossing of their line by the traffic of the proposed railway to the further side of a station, through which a large number of trains ran at high speed, was inconvenient and dangerous; and that on Railway No. 6 the traffic could only be conveyed by a back shunt into Enfield Station.

To these objections it was replied, that the road to be crossed by No. 2 was only a green lane, and so little used that the Great Eastern Company did not station a gatekeeper at the existing crossing; that the Ordnance Station was entirely open to view from No. 3, and that if the traffic thereon was worked as intended, in amity with the Great Eastern Railway, it would be so much under their control as to obviate the objection, and that No. 6 was proposed only for the accommodation of the Great Eastern Railway, and that no powers are taken in the bill for running over that line.

The Referees *reported* as to No. 1 that though the construction of both lines at the proposed levels was incompatible, as neither line had received the sanction of Parliament, this objection, in an engineering point of view was not admissible. That the introduction of facing points in the way proposed was very undesirable, and only to be allowed in case there were very strong reasons for effecting a junction with both the main lines at this station ; and that with this exception there were no objections to the engineering of the proposed railways.

17*th March*, 1865, *p.* 108.

CALLANDER AND OBAN RAILWAY.

(Mr. Hassard.)

Alternative Line within Limits of Deviation.

Sir Malcolm Macgregor alleged that another and better line, less injurious to petitioner's estate, could be made within the limits of deviation.

The Referees *reported*, that such deviation would require 27,000 additional yards of cutting, 300 yards of tunnel or covered cutting, of an average depth of 30 feet; that such deviation could be made; that its additional cost was variously estimated from £5000 to £12,000, and that unless a strong case were made out, no sufficient reasons in an engineering point of view for such deviation existed.

27*th March*, 1865, *p.* 176.

ABERYSTWITH AND WELSH COAST RAILWAY.

(Mr. Hassard.)

Opening Bridge — Beaching Ground — Concession to Opponents — Board of Trade.

It was objected that the proposed railway would obstruct the waterway of the river Dovey; that the proposed opening bridge over the same, of 25 feet span, was insufficient for the purposes of navigation, and that by the construction of an embankment, vessels would be compelled to beach on shifting sands, instead of as at present on the hard beach. The promoters expressed their willingness to substitute an opening bridge of any width which might be directed by the Board of Trade, and that if the vessels should be so removed, the sandy places could be rendered firm by laying down rubble, which could be easily procured in the vicinity.

The Referees *reported* that with these provisions there were no engineering objections.

1*st May*, 1865, *p.* 293.

FURNESS RAILWAY.

(Mr. Hassard.)

Viaduct—Opening Bridge—Impediments to Navigation—Board of Trade.

It was objected that No. 1 railway, which was proposed to be carried across the Duddon Estuary, by a viaduct 2618 yards long, of open piling throughout, with an opening bridge of 36 feet span would, from its exposed situation, almost prevent navigation, and injuriously affect shipping frequenting the harbour of Borwick Rails.

It was proved that there is a large and increasing trade at Borwick; that it is very exposed; that the channel where it was proposed to be crossed had shifted 700 feet northward since 1843, and it was alleged still to have a tendency to shift, but it was proposed to fix the channel to the site where the opening bridge was to be made, by consolidating the remainder of the sands under the viaduct, by the deposit of stone, so as to prevent the river from cutting a new channel.

The Referees *reported* that in an engineering point of view the proposed opening was insufficient, and that the works would be defective, unless such an opening bridge were constructed as the Board of Trade might consider requisite for the preserving of free navigation to Borwick Harbour.

13*th March*, 1865, *p.* 79.

FAREHAM AND NETLEY RAILWAY.

(Mr. Dodson.)

Opening Bridge—Willingness of Promoters to submit to Board of Trade not noticed in Report—Danger to Navigation.

It was objected that the viaduct across the Hamble would obstruct the navigation of that river. It was proposed to construct a viaduct of 17 arches of 30 feet span, affording a maximum headway of 46 feet at low water spring tides, and 19 feet at high water spring tides; and the engineer stated that it was the intention of the promoters to make in the viaduct an opening bridge of 40 feet span; and that the estimate would cover such a bridge, or such other as might be required by the Board of Trade.

The Referees *reported* that were an opening bridge of 40 feet only constructed, the navigation would be injuriously interfered with and materially affected.

13*th March*, 1865, *p.* 72.

DEE AND MERSEY JUNCTION RAILWAY.

(Mr. Hassard.)

Opening Bridge—Efficiency of Works—Danger to Navigation.

It was objected that the plan for carrying the railway across the river Dee, by an open piling of 360 yards in length, with 15 openings of 60 feet each, and one drawbridge of 85 feet span, was most objectionable, that the effect of it would be to make the steerage for all vessels difficult and dangerous, and to create shoals and sandbanks in the channel, both above and below.

The Referees *reported* that this viaduct could be constructed for the sum estimated, that it would be efficient for the object proposed, and that the channel under the drawbridge could probably be maintained, but that the effect of such works upon the sand must be very uncertain; and further, that in consequence of the strength of the tide at the proposed bridge, and the short period during which vessels could pass through the same, there would be a serious obstruction to the navigation of the river Dee, accompanied by some danger.

24*th April*, 1865, *p.* 269.

EAST LONDON RAILWAY.

(Mr. Hassard.)

Junctions on Crowded Lines—Amendment of Scheme whilst before Referees—No Decision of Court—Reference to Board of Trade.

By No. 1 Railway it was proposed to effect a junction with the main down line, and by No. 4 with the main up line of the London, Brighton and South Coast Railway (which there consists of four lines of rail), at a point about 200 yards on the London side of New Cross Station, over which the South Eastern Railway Company have and exercise running powers. These companies objected that the proposed railway would interfere with their use of the lines.

At the proposed point of junction, the two inner lines of rail are devoted to the through traffic, and the two outer to the local traffic; and on these inner rails the South Eastern Railway daily run 18 passenger and 7 goods, and the London, Brighton and South Coast Railway 18 passenger and 8 goods trains each way, none of them stopping at New Cross. On the outer rails, the London, Brighton and South Coast Railway run 81 trains, and the South Eastern Railway 24 trains each way, some of which follow each other at intervals of three minutes only.

These local lines it was proposed to cross on the level to effect a junction with the main lines.

No. 7 was a double line of rails, by which it was proposed to join the two eastern lines of the North Kent Railway of the South Eastern Railway Company (consisting at that point of four lines of rail); and No. 8 a spur of double line from No. 7, by which to join the two eastern lines of the North Kent at the same point.

The South Eastern Railway Company stated, that on the completion of certain authorized railways, it was their intention to devote the two eastern lines to North Kent, and the two western to Dover traffic; and proposed that the junctions should be effected with the two outer lines of rail only. To this the promoters assented, upon condition that the South Eastern should themselves effect a communication between the inner lines of rail, in such manner as should be agreed upon by them, or directed by the Board of Trade.

The Referees *reported* as to Nos. 1 and 4, that the junctions could physically be effected, but having regard to the very crowded state of the traffic, both on the local and main lines, whilst it was most desirable that the facilities sought by the promoters should be afforded, it was

questionable if the junctions should be allowed; and that the mode of junction, if any be allowed, should be determined by the Board of Trade (to this the promoters assented). As to 7 and 8 that in an engineering point of view the proposed arrangement should be adopted.

17*th March*, 1865, *p.* 113.

LONDON, BRIGHTON AND SOUTH COAST RAILWAY (ADDITIONAL POWERS).

(Mr. Hassard.)

Junctions on Crowded Line—Signals and Junction under same Control and Ownership.

The promoters proposed by the first junction railway to connect the line authorized by their South London Line Act, 1865, with their main line, at a point where it consists of three lines of rail, two used in common by them and the South Eastern Railway Company for their through traffic; and one used by the promoters for their up local traffic. There were 159 trains daily running upon the down main line, 77 trains upon the up main line, and 78 trains on the local line. By the second and third junction lines it was proposed to effect junctions with the up and down main lines of the Brighton Railway, somewhat nearer New Cross Station, and in manner precisely similar to that detailed in the Referees' Report on the East London Railway Bill (see *supra p.* 32). The South Eastern Railway Company objected that these lines interfered with their rights, and were laid out so as to cause unnecessary and injurious interference with their undertakings.

The Referees *reported* as to the first line, that the effecting a junction with so crowded a line must be attended with a certain amount of danger; but considering that the junction was to be effected with lines belonging to the promoters themselves, that the signals there were all under their own control, and that the object of the junction was to take some of the traffic to London Bridge off the main lines, and transfer it to the line authorized by their "Extension Act, 1863" (South London Line), the Referees are of opinion that this junction was not objectionable in an engineering point of view.

As to Nos. 2 and 3, they reported, after referring to the East London case, that in the present case the junctions proposed to be effected being with the promoters' own lines, they having the entire control over the signals thereon, and they also stating that the object of those junctions was to take traffic off their main lines to London Bridge, and transfer it to their South London Line, and by means thereof to obtain access to the

Farringdon Street Station of the London, Chatham, and Dover Railway, and with proper precautions, there were no engineering objections to the effecting the proposed junctions.

23rd March, 1865, *p.* 143.

SURREY AND SUSSEX JUNCTION RAILWAY.

(Mr. Adair.)

Junction—Crowded Line — Facing Points Reported against — Better Line Proposed by Landowner.

It was proposed that line No. 1 should commence by a junction with the main line of the London, Brighton and South Coast Railway, at the east side, which has at that point also local lines running parallel therewith close to Combe Bridge, near Croydon, and proceed on the eastern side of the said line, through the shrubberies belonging to the house of the Rev. J. P. M., and within about 40 yards of his residence; and Mr. M. objected that such Line had been injudiciously planned, and that other directions might be taken, attended with less engineering defects, and proposed that so much of No. 1 Railway, as lies between the junction at Combe Bridge, and the junction with No. 2 Railway, should be abandoned altogether, as requiring the insertion of facing points on the main down line of the London, Brighton and South Coast Railway, and alleging that Railway No. 2 would suffice for all connection of the lines which could be required; and further proposed, that if Railway No. 1 should be retained, it should be made as a single line, and should be continued parallel to, and not a greater distance than 14 feet from, the main line of the London, Brighton and South Coast Railway, until it had passed through his shrubberies (200 yards from Combe Bridge). The effect of this alteration would be to increase the gradient of No. 1 Railway (which is towards the station) from 1 in 115, to a gradient of 1 of 100, to the point of junction with No. 2 Railway.

The Referees *reported* that this would very much lessen the injury complained of by Mr. M., but would leave the facing points in the down main line; and it having been given in evidence before them that the South Eastern Railway alone had thirteen trains daily, each way, running at considerable speed over the place where the facing points were proposed to be put in, that unless there were very strong reasons for effecting a junction with the main lines, that part of the proposed Railway No. 1, was defective in an engineering point of view, especially

as the local traffic lines of the London and Brighton Company effect a communication with London.

13*th March*, 1865, *p.* 75.

NORTH SURREY RAILWAY.

(Mr. Hassard.)

Junction—Crossing Other Main Lines on a Level—Powers of Bill.

This was a proposal to make a line from the London, Brighton and South Coast Railway, near Streatham, to the London, Chatham and Dover Railway, at Clapham.

The London, Chatham and Dover Railway Company objected, that at the proposed junction with their railway, it crossed over four lines, two of which are intended for their city traffic, and two for the London, Brighton and South Coast Railway; and that as the junction was only proposed to be effected with the latter two lines, no proper junction could be made with the lines of the London, Chatham and Dover Railway, and that the powers for entering into a working agreement with them could not be carried into effect. In reply, the promoters proved that at the time of the survey, the London, Chatham and Dover Railway consisted of two lines only, and that the junction was proposed to be effected with these. The London, Brighton and South Coast Railway Company objected to the proposed mode of junction with their line at Streatham, and suggested, that if allowed, the junction with the up line should be made by a spur from the proposed line to be carried over their railway.

The Referees *reported*, that if the railway were intended to facilitate access to the City, the engineering would be defective, unless the junction be also effected with the London, Chatham and Dover City Lines, and to do this, it would be necessary to cross the two lines appropriated to the London, Brighton and South Coast Railway on the level; that the effecting the junction at Streatham by the spur would be safer engineering, but would involve worse gradients, and that no powers were taken by the bill to effect the necessary works, they not being on the deposited plans; that there were no ventilating shafts provided, nor could they be made, in a tunnel of 2090 yards, and the ventilation was, therefore doubtful, and that no land had been provided for stations, nor were powers sought to run into any station on other lines, on which account, the engineering details were deficient.

17*th March*, 1865, *p.* 110.

PERTH GENERAL RAILWAY STATION.

(Mr. Hassard.)

Junction—User of Line not Provided for in Bill.

The Referees *reported* that these lines would be defective unless the Scottish North Eastern were empowered to use Railway No. 2, for the purpose of delivering traffic consigned to the Scottish Central Company, so as to prevent traine standing upon the Scottish North Eastern main line while waiting to enter No. 2; that they would cut off the Perth Station Committee from land intended to be acquired by them for the general station, unless means were provided in the bill maintaining such access, and that there were reasons for forming a junction on No. 4 in the manner proposed, which did not fall within their province to offer an opinion upon.

28th March, 1865, *p.* 180.

WREXHAM AND MINERA RAILWAY.

(Mr. Adair.)

Junction—Not Effected Physically—Running Powers—Gradient—Curve.

It was objected that though the line was professedly an extension of the Wrexham and Minera Railway, it had no physical junction with that line, and that the curves and gradients were not calculated for passenger traffic. It was replied, that though there was no physical junction with the Wrexham and Minera Railway (inasmuch as 12 chains of the Great Western intervened), the bill authorized the Wrexham and Minera Company to enter into arrangements for the user of that line, and the Great Western to subscribe to the undertaking.

The Referees *reported*, that the worst gradient was 1 in 50, and the worst curve 15 chains radius; and that these were not engineering objections.

7th April, 1865, *p.* 263.

SHREWSBURY AND POTTERIES JUNCTION RAILWAY.

(Mr. Dodson.)

Junctions—Undue Interference with Petitioners' Railway.

For the petitioners it was alleged, that the lines would interfere with the safe and effective working of their lines. Objections were made

on engineering grounds, to the numerous junctions involved in the promoters' scheme, more especially to those of Nos. 2 and 3 with the Shrewsbury and Birmingham Line, which the traffic of those railways in passing from one to the other must cross on a level. It was also urged, that lines 2 and 3 would extend for a considerable distance closely parallel to the Crewe and Shrewsbury and Shrewsbury and Welchpool Railways, and prevent any future widening of those lines on that side; that No. 1 would cause similar inconvenience by running parallel to the Wellington and Drayton Railway, and that it would interpose between that line and Hodnet.

The Referees *reported* that the proposed lines would not unduly interfere with the petitioners' railways, and are calculated to relieve the Shrewsbury Station of much traffic, now entering only for the purpose of being shunted and marshalled; and that the objections alleged on engineering details are not such as should prevail against the promoters' scheme.

7th April, 1865, *p.* 257.

WOLVERHAMPTON AND BRIDGNORTH RAILWAY.

(Mr. Hassard.)

Junction near Station—Gradients—Tunnel—Control of Working.

It was objected that a junction with the Severn Valley Railway, which is there a single line, was to be effected at a distance of one and a-half miles from Bridgnorth Station, where the proposed line will be on a descending gradient of 1 in 156, the Severn Valley Railway there being upon a gradient of 1 in 264 rising towards the station; that a tunnel above 500 yards in length would intervene between the junction and the station, the mouth thereof being 17 chains from the station; and that upon the said line there are gradients of 1 in 66 for 1 mile, of 1 in 70 for 2 miles 28 chains, and of 1 in 80 for 1½ mile.

The Referees *reported*, that the junction in question was to be effected with a line for some time worked without difficulty, and to be worked by the same Company, and that there were no engineering objections to the proposed line.

6th April, 1865, *p.* 234.

VALE OF CRICKHOWEL RAILWAY (WESTERN EXTENSION).

(Mr. Hassard.)

Junction near Station—Gradients—Control of Working—Powers of Bill.

The works complained of were junctions proposed to be effected by double fork at the Talybont Station of the Brecon and Merthyr Railway.

The southern fork was to effect its junction at some distance from the foot of an incline, 6¾ miles long, of 1 in 39; and the northern fork at some distance from the foot of an incline 1¾ miles long, of 1 in 40. The space intervening between these inclines for 29 chains, is upon a gradient of 1 in 300, and upon this space the Talybont Station is placed.

It was also objected, that the proposed railways would destroy the sidings by which the Brecon and Merthyr Company obtained access to their engine shed, turn-tables, and goods shed; to which it was replied, that certain sidings could be provided in lieu thereof.

The Referees *reported*, that it would be desirable, if possible, to avoid effecting a junction with a railway so near to such long and steep inclines, but that from the nature of the country, if a junction is to be effected, it could not be made without some defect, and that as the control of the trains and signals was to be vested in the Brecon and Merthyr Company, there were no engineering objections; and also, that the proposed sidings, which were laid down in a plan produced, were not wholly within the limits of deviation, consequently could not be effected within the powers of the bill.

16*th May*, 1865, *p.* 368.

SOUTH WALES & GREAT WESTERN DIRECT RAILWAY.*

(Mr. Adair.)

Bridge—Injury to Navigation—Public Interests.

It was proposed, in order to save 22½ miles between London and South Wales, to cross the River Severn, by a bridge, upon 87 piers, consisting of iron cylinders, ranging from 10 to 20 feet in diameter, and 178 in number, which would occupy a space equal to one-fifteenth of the whole river; the viaduct, 2½ miles long, was proposed to consist of 71 arches; 1 of 600 feet, 2 of 265, 30 of 167, 17 of 140, 21 of 138, the maximum

* This case, as here printed, is, with omissions, in the exact words of the Report. —R.D.M.L.

headway was to be in the three largest arches, 100 feet, in the next thirty arches would range from 56 feet to 98 feet 3 inches.

The Referees *reported* as follows, that the various issues raised between the promoters and the opponents were thoroughly investigated during a long inquiry, and underwent the attentive consideration of the Referees. The evidence laid before them was on many points extremely conflicting, and the statements of the witnesses upon every matter of fact not easy to be reconciled. After carefully weighing all the evidence on both sides, and making such allowance as appears reasonable for bias on the minds of the witnesses, the Referees have been led to adopt the following conclusions :—

1. As regards the restriction of the waterway, the Referees have not been led to conclude that any material addition to the dangers of the Severn, or any inconvenience too great to be reasonably imposed upon those who make use of the navigation, would be occasioned by the proposed structure, in case the general interest of the public justify the interference. The position of the bridge in a straight reach of some length, and in a part where the channel appears from the charts to have been for a long time constant, is favourable for the purpose. The span of the main arch, 600 feet in width, exceeds that of any bridge in the kingdom, and is considerably wider than the actual channel in some parts of other navigable rivers; and, assuming the use of lights, and other suitable precautions, the risk of collision with the piers does not appear to justify serious apprehensions.

2. As regards the headway, assuming as it appears fair to do upon the balance of evidence, the minimum period of one hour before high water, as the time at which vessels going up would reach the side of the bridge, the available headway at spring tides would range from 104 feet 3 inches to 109 feet 5 inches, according to the height of the tides. It is admitted on the part of the promoters, that vessels beyond a certain size (which may be taken at 400 tons register) could not pass under without lowering their topgallant masts. The evidence is very conflicting as to the existing practice in this respect, and also as to the degree of inconvenience and delay involved in the operation. Upon the whole, the Referees are led to believe that the masters of vessels going up to Gloucester, seldom lower their masts, and that they feel considerable repugnance to being compelled to do so. On the other hand, it is enforced in some harbours, and was so, until within a few years, at Gloucester.

It is necessarily done at the Menai Straits, where the height of the Britannia Bridge is 100 feet above ordinary spring tides. It was proved to the Referees, that this bridge has not prevented the resort to the port

of Carnarvon of vessels of as large tonnage, as those which now go to Gloucester.

From the copious evidence laid before the Referees respecting the structure and measurement of vessels, they believe themselves safe in concluding that the necessity for lowering the topgallant masts in order to pass through any of the three highest arches, would apply to but few vessels under 400 tons register, while some above that burthen would be able to pass through without lowering. But if 400 tons be assumed as the limit, the number of vessels entering the port of Gloucester, according to the average of the last ten years, that would be affected by such a regulation would not exceed 67 per annum. It appears therefore to the Referees, that neither in respect to the inconvenience which it might cause, nor to the extent of its operation, can the obligation of lowering the topgallant masts be considered as a grievance which would constitute a valid objection to the proposed headway.

It appears to the Referees, that there may be reason to apprehend that large vessels may be occasionally deterred from coming to that port, and that the selection of vessels for the trade of Gloucester may be somewhat narrowed, but they do not think that such apprehensions could be lasting or the effects serious.

One other point only remains to be noticed. In addition to the objections above stated, some evidence was given by the opponents as to the physical effect likely to be produced by the interposition of so large an amount of solid structure in the bed of the river, and eventually upon the course of the channel itself. In the present instance, the evidence offered was not such as to satisfy the Referees that any extensive change was likely to result which ought to form an objection *per se* to the proposed structure.

Upon the whole the Referees are of opinion, that if the proposed new communication between the Metropolis and South Wales shall be considered to afford important advantages to the public, the objections which have been noticed against the proposed bridge upon engineering grounds are not such as to justify the rejection of the scheme.

15*th May*, 1865, *p.* 353.

SEVERN JUNCTION RAILWAY.

(Mr. Adair.)

High Level Bridge — Alteration of Span.

The promoters proposed to cross the river Severn, above Gloucester, by a high level bridge of sixteen arches, two of 200 feet span, one of

150 feet span, and thirteen of 100 feet span, the maximum headway being 68 feet, and the minimum 50 feet; for the purpose of connecting the South Wales Coalfields and the Midland and Southern Districts of England.

The opponents mostly alleged probable injury to the navigation, and the promoters of the South Wales and Great Western Direct Railway alleged that their bill offered a better scheme for the public.

The Referees *reported*, that should the Committee allow the scheme to proceed, the promoters should be legally bound to construct the second arch of the bridge from the Welsh shore, of a span of 300 feet, and the third arch of a span of 180 feet, and that should this requirement be carried out, there would be no engineering objection to the proposed bridge.*

15*th May*, 1865, *p.* 361.

CHICHESTER AND MIDHURST RAILWAY.

(Mr. Dodson.)

Junction with Single Line with Facing Points—Gradients and Works.

It was objected that Railway No. 1 would interfere at the junction at Haslemere, with the London and South Western, and that the works were heavy and costly.

The Referees *reported*, that the junction as proposed at 10 chains from Haslemere Station, would necessitate the insertion of facing points in a gradient of 1 in 100 falling from the station, but as long as the line is worked as a single line, all trains stopping at Haslemere to pass, no down train would have acquired any considerable velocity at the point of junction, and that the long gradient of 1 in 70, and a tunnel of 1089 yards, as well as some curves, which would require great care in the working of the railway, were necessitated by the features of the country, a difference of 332 feet in height, having to be surmounted, and to be effected in the last 3 miles of the north end of the railway.

6*th March*, 1865, *p.* 50.

* No notice is taken of the opposition of the South Wales and Great Western Direct, probably because it was a competing scheme, and was fully reported upon in Mr. Adair's report, supp. votes, p. 353, ante. p. 38.

LEEDS, NORTH YORKSHIRE AND DURHAM RAILWAY.

(Mr. Hassard).

Building Plans—Compensation—Roads—Sewers—Interference with Opponent's Goods Station — Concessions —Junctions — Gradients—Facing Points—Efficiency of Works.

A petition was presented on behalf of Mr. A. M. and several others, owners of lands in the line of the said railway, complaining that it was proposed to raise a certain bridge, called Monk Bridge, a height of 7 feet, which would cause the approaches to Mr. M.'s land to be more steep.

That the said Railway No. 1 would destroy a certain plot of land which had been laid out for the erection of mills and wharves.

The Referees *reported*, that the matters complained of, relate to a claim for compensation rather than to an engineering defect, and that so far as this petition was concerned, there was no engineering obstacle to the executing of the proposed railway.

The Leeds and Collingham Road Trustees objected, that at 11 miles 70 chains, and at 12 miles 10 chains from Leeds, it was proposed to divert the said road, which when so diverted would run close along and on the eastern side of said railway for a distance of two miles; and the Referees *reported*, that this would be an engineering defect unless a proper screen such as might conceal the said railway from view be provided along the said road.

A petition was presented on behalf of the Great Northern Railway Company, complaining that the promoters sought to take land and property of the petitioners, which was essential to the accommodation and working of the traffic of petitioners; and that the promoters would injuriously interfere with the railway and works of petitioners at the Leeds Central Station. It was proved that the Great Northern Railway Company had acquired a piece of land, about 5½ acres in extent, which they were preparing, by raising the surface 16 feet, for an extension of their goods station; that Railway No. 1, as laid down upon the plan would pass through the centre of this land, upon the present surface of the ground, and so cut the land into two parts, as well as occupy a considerable portion of the ground. To obviate this objection, the promoters proposed at the option of the petitioners, either to carry their railway in a covered cutting through the said land without altering the surface thereof as raised (which they could do by slightly depressing the proposed level of their rails), or to deviate their proposed railway, so as to pass

close along the side of the Canal, and thus avoid severing this parcel of land.

Either of these propositions could be carried out; and the Referees *reported*, that in that event, there would not be any engineering obstacle to the construction of Railway No. 1 as far as the Great Northern Railway is concerned.

It was also objected that No. 5 Railway, which is a Branch from No. 4 Railway, terminating by a Junction with the Leeds, Bradford and Halifax Railway, would be dangerous, inasmuch as the Leeds, Bradford and Halifax Railway at the point of junction is upon a gradient of 1 in 50 descending towards the station, and that the introduction of facing points upon such a gradient would be attended with danger.

The Referees *reported*, that introducing facing points and forming a junction upon such a gradient is objectionable, but upon considering the character of the Leeds Station, and that the speed of trains must be slow at the point of junction, in an engineering point of view the junction in question might be sanctioned.

No. 4 Railway was objected to by the North Eastern Railway Company, upon the ground that it would cross the petitioners' railway at their Wellington Street Goods' Station, Leeds, by a bridge in such a manner as would impede all view of anything descending the petitioners' line, which there descends with a gradient of 1 in 50. But it was proved that Railway No. 4 would there be carried upon an open iron viaduct, and the Referees *reported*, that there was no engineering objection to the construction of Railway No. 4 upon the grounds alleged.

No. 9 Railway, which was a Junction Railway from No. 1 in the township of Wetherby, to the North Eastern Railway, in the said township close to Wetherby Station, was objected to, upon the ground that the junction was effected upon the gradient of 1 in 66, rising towards the North Eastern Railway, without the intervention of any level space upon which a train could stand; and that no powers were taken to run into the Wetherby Station, nor were any sidings provided for standage at the point of junction.

All these facts were admitted, and the Referees *reported* that whilst there were no engineering obstacles to the effecting of the junction as proposed, it was a defect that no standage was provided nor powers taken to run into the North Eastern sidings at the Wetherby Station.

Nos. 11 and 12, which were junctions from No. 1 Railway to the North Eastern Railway: in the townships of Alne and Tollerton, about 600 yards from these stations respectively, were objected to upon the

ground that facing points would be introduced with the North Eastern Railway.

Nos. 11 and 12 Railways would effect junctions with the up and down lines of the North Eastern Railway, which was there and for a long distance upon a level. It is the part of the North Eastern Railway upon which the express trains run at the highest speed, and the North Eastern Railway Company, have gone to much expense to avoid inserting facing points therein, there being but one set between York and Darlington. The promoters state that the insertion of facing points could be avoided, but not within the powers contained in the bill, or without the concurrence of the North Eastern Railway Company.

The Referees *reported* that the forming those junctions with facing points, as proposed, would be objectionable in an engineering point of view.

No. 13 Railway, which is a junction from No. 1 Railway to the North Eastern Railway, in the township of Kirkby, was objected to upon the ground that it would be effected 600 yards from the Stokesly station; that the North Eastern Railway is there a single line, carrying a very large amount of mineral traffic; that it is worked upon the staff system, and that it would be attended with much danger to effect this junction at this point. Upon those grounds the Referees *reported* that this junction was objectionable in an engineering point of view.

No. 20 Railway, which was a junction from No. 2 Railway to the North Eastern Railway, in the township of Pickering, was objected to, upon the ground that the point of junction which would be about 20 chains from the Pickering station of the North Eastern Railway Company, would be hidden from view from the said station, by the embankment upon which Railway No. 2 was there intended to cross the North Eastern Railway, but it was proved that an opening could be made in the said embankment, so as to afford a view of this point of junction, and with this alteration, the Referees *reported* that there were no engineering objections to the effecting of the proposed junction.

No. 21 Railway, which was a junction from No. 2 Railway to the North Eastern Railway, in the township of Seamer, was objected to upon the ground that the point of junction, which would be about half a mile from the Seamer station, and the same distance from the Filey Junction of the North Eastern Railway, ought to be effected at the Seamer station, and if constructed as proposed, it would be hidden from view from the said station by the embankment upon which said Railway No. 2 crosses the North Eastern Railway.

The effecting the junction at the Seamer Station would involve the placing the junction where the North Eastern Railway crosses a public road upon the level, and it was proved that by deviating Railway No. 2, and putting an opening in the embankment upon which it is to cross the North Eastern Railway, a view of both the proposed and the Filey junctions can be preserved; and with these alterations the Referees *reported*, that there were no engineering objections to the proposed junction.

The Referees further *reported*, that they had carefully examined the estimate, and were of opinion, that with rigid economy the sum estimated would be sufficient for the execution of the works contemplated in the deposited plans, and perhaps for the carrying of the roads now proposed to be crossed upon the level over the proposed railways, as might be hereafter required; but it was admitted, that no provision had been made for providing station land or buildings at the termini of the said railways, nor at any intermediate points along the said lines, nor had any provision been made for sidings at any of the proposed junctions; and the Referees *reported*, that without these several matters being provided, the intended works would not be efficient for their proposed object.

3rd April, 1865, *p.* 219.

CRYSTAL PALACE RAILWAYS (NEW LINES).

(Mr. Hassard.)

Gradients—Station Room—Improvement of Scheme.

It was objected that Railway No. 1 would be 1 in 70 from its point of junction with the Crystal Palace and South London Junction, for a distance of 2¼ m., and that it was proposed to place a station upon the line at a point within that distance. The promoters replied, that they could construct that part of the line for the distance of 150 yards with a gradient of 1 in 300. The Referees *reported* that this would suffice for the placing of such station.

24th March, 1865, *p.* 159.

LANCASHIRE UNION RAILWAYS.

(Mr. Hassard.)

Gradients—Connected Lines.

It was objected that the gradients were bad, the steepest being 1 in 90.

The Referees *reported*, that as steeper gradients existed upon the lines with which the proposed line forms junctions, this was not objectionable.

26*th April*, 1865, *p.* 276.

METROPOLITAN AND ST. JOHN'S WOOD RAILWAY.

(Mr. Adair.)

Gradient 1 *in* 27—*Reversed Curves of* 10 *and* 12 *Chains*—*Reported for.*

The proposed line was 83½ chains in length,* of which 23½ chains were horizontal, and 61½ on a gradient of 1 in 27, of which 18 chains were in tunnel. It was to leave the Belsize Station on a curve of 10 chains radius, followed by a piece of straight for a little less than 1 chain, running into a curve of 12 chains radius; and then proceeded to a piece of gradient of 1 in 250, on which a station was proposed to be erected, and thence through a tunnel to Hampstead, entering the station by a curve of 15 chains.

It was proved that the long prevailing gradient of 1 in 27 was in considerable excess over that on any other railway except near Oldham, over which a considerable goods and passenger traffic is carried.

The Referees *reported*, after hearing evidence as to the manner in which the promoters undertook to carry on traffic, that this line presented a most unusual combination of curves and gradients, particularly at the Belsize Junction, where the piece of inserted straight line (though capable of a small extension) was of the most limited length, and barely sufficient to remedy the engineering objection of reversed curves of 10 and 12 chains radius; but that if the break power be sufficient, the trains very short, the line for passenger traffic only, worked by the best system of signals, under the conduct on all occasions of a pilot man, and by rolling stock specially constructed for the purpose, there were no insurmountable engineering objections to the construction of the railway.

17*th March*, 1865, *p.* 109.

* This statement as to the whole length or one of the parts is obviously an error.

LONDON, WORCESTER, AND SOUTH WALES RAILWAY.

(Mr. HASSARD.)

Gradient near Terminus on Level of Street—Concession to Opponents.

IT was objected, that the proposed line was intended to cross the Stratford-upon-Avon Branch of the Great Western Railway by a bridge of 28 feet span, at a point where they had already a main line and two sidings, and might require space for an additional line of rail; and that the promoters had no means of getting into the Stratford-upon-Avon Station, except by a back shunt over the authorized line of the East and West Junction Railway; and that line No. 2 descended at Worcester, first with a gradient of 1 in 44, then horizontally for only 10 chains to a terminus in Sansum Street.

The promoters replied, that they were willing to erect a 40 feet bridge, which would be sufficient to pass over the existing line and sidings, and that it was intended to erect a station at or near the junction with the East and West Junction Railway, whereby the necessity of the back shunt would be avoided.

The Referees *reported*, that a bridge of 40 feet span was sufficient for all necessary purposes, and that the proposed gradient of 1 in 44 to within 10 chains of a terminus on the level of a street was of an unfavourable character.

14th March, 1865, *p.* 86.

NORTH OF ENGLAND UNION RAILWAY.

(Mr. HASSARD.)

Gradient—Alteration of Scheme before Referees—Improvement of Curves.

IT was objected that No. 2 Railway, in approaching the London and North Western Railway, to effect a junction therewith, descends for a distance of 1 mile, with a gradient of 1 in 70, then is level for 5½ chains up to the point of junction; but inasmuch as the London and North Western Railway is there upon a gradient of 1 in 100, descending towards the junction, it would be necessary in order to effect such junction, to lower the level space 16 inches and also reduce its extent; to which it was answered, that by removing the gradients of 1 in 70, and 1 in 160 back upon an adjacent level space, the full extent of level space on the 5½ chains might be recovered. It was also objected that there were a number of reversed curves of 20 chains radius;

to which it was answered that they could be much improved within the limits of deviation.

The Referees *reported* that the junction could be effected as last proposed, and that there was no objection in an engineering point of view, and that the reversed curves of 20 chains were very objectionable, but that they could be much improved, and that there were no engineering obstacles to that portion of the line being carried out as proposed.

6th April, 1865, *p.* 235.

NEWPORT AND USK RAILWAY.

(Mr. Hassard.)

Alteration of Gradient.—Objection that Junction should be nearer Station not a question of Engineering.

It was objected that on the deposited plans the proposed Railway was shown to be level for 6 chains up to the point of junction with the Monmouthshire Railway, which is there on a gradient of 1 in 273, and that therefore it would be impossible to effect a junction unless the proposed railway were made to conform to the Monmouthshire Railway over about 600 yards; and also, that the junction ought to be near the existing Newport Station, instead of about 48 chains therefrom.

The Referees as to the first objection *reported* that the junction gradient could be altered without difficulty, and that there was no engineering objection. As to the second, that it would seem better if the junction was nearer to the station, but that that was a matter to be determined upon consideration of the amount of traffic rather than as a question of engineering.

2nd May, 1865, *p.* 299.

CENTRAL WALES AND STAFFORDSHIRE JUNCTION RAILWAY.

(Mr. Hassard.)

Gradients — Destruction of Opponent's Sidings, &c.

It was objected that No. 1 descended on a gradient of 1 in 66 for a mile and a quarter to the Bridgnorth Station, where it has a level of about 5½ chains, and that it does not form any junction with the Great Western Railway, but runs parallel with it for about 1 chain. It was

replied, that the nature of the country renders it difficult to approach Bridgnorth with a good gradient, and that the main object of making this gradient so steep was to keep the rails in Bridgnorth Station at the same level as the rails of the Great Western Railway there, so that a connection may be effected at any time hereafter.

No. 4 Railway was objected to on the ground that, to effect a junction with the West Midland Railway, it would cut through and destroy certain coal wharves and sidings near the town of Netherton. This was admitted, but it was said that inasmuch as the sidings of the West Midland Railway are nearly continuous from Netherton to Dudley, it would be impossible to effect a junction without doing some such damage.

The Referees *reported* that there were no engineering objections.

3rd April, 1865, *p.* 215.

CHIPPING-NORTON, BANBURY AND EAST AND WEST JUNCTION RAILWAY.

(Mr. Hassard.)

Gradient near Station—Back Shunt up Gradient of 1 *in* 100 *Reported Against.*

It was objected to the junction with the authorized East and West Junction Line, that the proposed line would be upon a gradient of 1 in 79, falling towards the point of junction with only 6 chains of level before effecting that junction; to which it was answered, that as the junction was near the proposed station of the Essex and West Junction, the speed would necessarily be slow. To No. 2 it was objected that it effected a junction with a siding of the Great Western at Banbury, and after a level space of 8 chains passed upon a gradient of 1 in 80, falling towards the station, with a curve of 20 chains radius over the Great Western Railway; that the junction proposed to be effected with the Great Western Railway at Chipping-Norton, would be at a distance of 52 chains from the station; the gradients of the proposed line being 1 in 63 up to 10 chains from the point of junction, and for that space 1 in 165 towards the junction, the gradient of the Great Western Railway being there 1 in 100 falling from the station, which would involve a back shunt of 52 chains, up an incline of 1 in 100 for all trains passing from Banbury to Chipping-Norton.

The Referees *reported* that with ordinary precautions there were no objections to the junction of No. 1. That the mode of junction at Banbury, and also that at Chipping-Norton, was an engineering defect.

30*th March*, 1865, *p.* 195.

PERTH GENERAL RAILWAY STATION, SCOTTISH CENTRAL, &c., RAILWAY COMPANIES.

(Mr. HASSARD.)

Junction — Back Shunt on Main Line.

IT was objected that Railway No. 2, which diverged from No. 1, the new main line, and led to the proposed new goods station, would not effect any junction with lines from the north; and that trains coming from the north would have to make a back shunt upon the new main line.

The Referees *reported* that this was defective in an engineering point of view.

28*th March*, 1865, *p.* 179.

MIDLAND RAILWAY (NEW LINES, &c.)

(Mr. HASSARD.)

Private Sidings—Junction—Level Crossings in Street.

Messrs. B. & Co. objected that Railway No. 14, a short loop line, commencing by a junction with the Midland Railway, north-west of the crossing of Guild Street, in Burton, and terminating by a junction with the same line south-east of the same crossing, crossed at both ends the sidings of the petitioners at their junctions with the Midland Railway, and crossed Guild Street on the level, about 6 feet from the existing crossing.

The Local Board of Ashby-de-la-Zouche complained that it was proposed to cross three of their roads on the level, which would be highly dangerous. The railway was proposed to take the line of an existing horse tramway, one of the roads marked "disused road," on the plan, was cut off, and another road substituted for it when the Midland Railway Act, 1846, was obtained, and there was very little traffic upon it; the second was stated to be the principal street of the town, and the ascending gradients from the railway were for 53 yards 1 in 41, then for 90

yards 1 in 23, and for 23 yards 1 in 53 ; the promoters maintained that they could not throw a bridge across it, because the necessary embankment would destroy the houses on each side, the third had a descending gradient of 1 in 16½ for 250 yards, and the petitioners stated that they were improving it to provide for the traffic; the promoters admitted that a bridge could be thrown over this, but said it was a mere bridle road.

The Referees *reported*, as to No. 14, that the junctions disturbed being formed on the property of the Midland Company, the sidings at the points where they are crossed belong to them; that the junctions could easily be readjusted, and that there was no engineering objection to the sidings or Guild Street being crossed as proposed. As to the petition of the Local Board, they *reported* that the descent to the level crossing was very steep, and was an engineering objection to the proposed line, but that if protected by gates and a watchman, that it would not be more dangerous than as at present over an open tramway without such protection, and that there were no engineering objections to crossing these roads as proposed.

3rd April, 1865, *p.* 223.

MOLD AND DENBIGH JUNCTION RAILWAY (EXTENSIONS).

(Mr. Adair.)

Width of Over Arch — Shiftiness of Soil where Passing under Opponent's Line — Junction — Single Line — Level Crossing.

The London and North Western Railway Company complained that their Treiddyn mineral branch would be interfered with, as the proposed line crossed it by a bridge only 15 feet in width, whereas that Company possessed land for a double line, and might hereafter construct and use it as a passenger line. The promoters replied, that the gradient being 1 in 34, the branch could never be used as a passenger line, and moreover, that if necessary, as the promoters propose a double line, sufficient width of bridge could hereafter be given.

The Great Western Railway Company objected that the proposed railway sought a defective junction with their line at Wrexham, and was badly laid out in an engineering point of view.

The petitioners stated that they had experienced considerable difficulties in constructing their line, owing to the soft and shifting nature of the soil, and that although their line was nowhere in deep cutting,

constant slips had taken place; that the proposed line was where it crossed under the petitioner's railway (at that point on an embankment) 52 feet below the surface, and that further on the promoters proposed a cutting of 18 feet, which would endanger the stability of the existing railway; that it was proposed to cross the south fork of their railway at Wrexham (there a single line), and to effect a junction with both lines of the Shrewsbury and Chester Railway at the south end of Wrexham Station, taking no powers to use the station, and that the junction was proposed at a point where the Shrewsbury and Chester Railway passes over a level crossing; that considerable and increasing mineral traffic is constantly and at uncertain intervals passing over the south fork, over which empty waggons are shunted, thus constituting a siding as well as a main line for through trade, and that the introduction of two more lines at the level crossing was dangerous, and would impede the safe working of the station.

In reply it was urged that though the construction of the line might be expensive from the nature of the soil, it was practicable, and that the depth of cutting was exceptional and owing to the formation of the land at that point; that they would construct a station on their own land at Wrexham; that the junctions were practicable, and not subject to any disadvantage other than those attaching to any junctions requiring facing points.

The Referees *reported* that the width of the Treiddyn Bridge was sufficient, but as regards the nature of the soil sufficient care had not been taken to ascertain accurately the nature of the soil on which the works were to be constructed; that the proposed junction at Wrexham (considering the nature of the traffic on the south fork, and the point at and the manner in which it was proposed to join the main line of the Shrewsbury and Chester Railway) was very objectionable, and was a defect in an engineering point of view.

7th April, 1865, *p.* 264.

HORNSEY AND KINGSLAND JUNCTION RAILWAY.

(Mr. Hassard.)

Junction Double Line running into Single Up Line—No Provision for Stations or Running powers.

It was objected that it was proposed that this railway (a double line) should effect a junction with the up line of the Edgware, Highgate and

London Railway, at the east side of the Great Northern Railway near Seven Sisters' Station, but no provision was made for the carrying on of the down traffic, there being no junction proposed with the down line of the Edgware, Highgate and London Railway, which is upon the west side of the Great Northern Railway, and also that a junction was to be effected with the North London Railway, but no station was proposed to be erected there, nor were there any powers in the bill for running into any station on the North London Line.

The Referees *reported* that the engineering was deficient.

16*th March*, *p.* 91.

NORTH BRITISH RAILWAY (CARLISLE STATION BRANCH).

(Mr. Hassard.)

Destruction of Private Siding — Compensation — Signals in Station worked by One Man.

It was objected, that the railway would destroy a siding leading to Messrs. N.'s marble yard, and that four additional sets of points would be introduced into the station, which would require to be worked from the present signal station, 100 yards distant; and it was proposed to work some of the signals and points to be introduced by another man in addition to the person at present in charge of the points and signals at the north end of the station.

The Referees *reported* that the siding leading only to the marble yard its destruction was a question of compensation rather than engineering, and that to ensure safety, all the points and signals at the north end should be under the control of one man; and that if the proposed works be executed, the number which must then be placed in his charge would be excessive.

2*nd May*, 1865, *p.* 297.

REGENT'S CANAL (LIMEHOUSE BASIN AND CUT).

(Mr. Adair.)

Stopping up Streets — Swing Bridge — Strong Necessity for Works.

It was objected that the promoters took powers to stop up part of Ristre's Ropewalk and the whole of Tyte's Alley, by which last arrangement an alternative route which traffic frequently takes to avoid a pass-

ing over a fixed and narrow bridge at Limehouse Cut entrance, and where the narrowness of Narrow Street causes frequent delay, would be entirely destroyed, and the convenience of passage from east to west irremediably prejudiced; that the construction of a new swing-bridge in addition to two existing would be inconvenient; that under an Act of George the Third powers are vested (and intended to be exercised) in the Board of Works of Limehouse District, to construct a new street from Queen Street through Ristre's Ropewalk to Northey Street, which the bill proposes to repeal, and thus render the carrying out a great local improvement impossible.

In reply the promoters stated, that in lieu of Tyte's Alley, which is 10 feet wide, and so much of Ristre's Ropewalk, 26 feet wide in some parts, as is stopped up, they proposed to substitute a new street of 30 feet width throughout, and to widen Narrow Street, which is now in the widest part only 25 feet wide to an uniform width of 30 feet; that the new swing-bridge would be over the dock chamber, the area of which would allow many vessels to be above the bridge, which would not be kept open for more than twelve minutes at one time; that a platform would be constructed for foot-passengers on the dock gates; and that the new street would answer all the objects of the proposed street of the Board of Works.

The Referees *reported*, that unless some very strong necessity for the proposed works be shown to the satisfaction of the Committee, the introduction of a third-swing bridge into these crowded thoroughfares, allowing for the increased width of Narrow Street would be a serious interruption to the use of the streets, and that the new street would, by stopping up an alternative route, and rendering the larger improvement impossible, only in a limited degree relieve the existing crowded state of the thoroughfares.

27th March, 1865, *p.* 173.

AFON VALLEY RAILWAY.

(Mr. Hassard.)

Injury to Tramways — Compensation—Amendment of Scheme while before Referees.

It was objected that the proposed railway would cross several mineral tramways belonging to the petitioners in such a manner that the levels of the tramways would require to be altered, in order to give sufficient

headway for locomotive engines to pass under them; and it was admitted that the tramways had been treated as private roads, and that no specific arrangements had been made or sum included in the estimates for the alteration thereof. It was also objected that it would be impossible to effect a junction of the proposed railway with the Llynvi Valley Railway in the manner shown on the deposited plan, inasmuch as the proposed railway would be on a gradient of 1 in 40 up to the point of completion of the junction, the Llynvi Valley Railway being the level for 130 feet before such completion. To obviate this difficulty it was proposed to push back the entire inclined part (2 miles) of this line about 130 feet; but it was still objected that the junction would be effected where the proposed railway was upon a gradient of 1 in 40 descending towards the Llynvi Valley Railway, which there is level for only 528 feet, and which has also at that point a branch line diverging from that level space, which is barely sufficient for the traffic at that point. The promoters thereupon proposed to put in a blind siding with self-acting points to divert all traffic descending the proposed railway into it.

The Referees *reported* that the collieries to which the tramways gave access were of considerable value, and that unless suitable provision were made for working them a very heavy sum might have to be paid for compensation to the owner; but that there were no engineering difficulties in the construction of that part of the railways, and that the construction of the siding would be attended with considerable expense, as it would have to be effected by excavation into a bed of iron ore; but that if the Committee should sanction the proposed alterations there would be no engineering objections to the railway as altered, and that the sum estimated was sufficient for the execution of the works proposed.

5th May, 1865, *p.* 315.

SOUTH LANCASHIRE RAILWAYS AND DOCK.

(Mr. Hassard.)

Crossing Tramway so as to Destroy it—Improving Schemes—Powers—Deposited Plans—Efficiency of Works.

It was objected by Messrs. Knowles that No. 1 Railway would cross the petitioners tramway to their Headley Colliery, leaving a height of but 9 feet 6 inches from rail to rail, that tramway being at present worked by locomotives which it would be impossible to continue to do

with such a headway, and that railway No. 2 would cut through a tramway leading to the top pit and a triple set of marshalling sidings with a cutting 3 feet in depth, so as to necessitate the alteration of those lines. It was objected by the London and North Western Railway Company, that the Junction Railway, No. 3, with their North Union Railway, was to be on a descending gradient of 1 in 88 towards the North Western Railway, which is there very much crowded with traffic, and without any level space intervening between the said gradient, and that the point of junction was badly contrived; that the lock at the entrance to the dock, as shown on the deposited plans, was too small for the purposes of the dock, and that the estimates were insufficient.

The promoters replied, that the Headley tramway could be lowered at the point of crossing, so as to admit the passage of locomotives; that the sidings on No. 2 could be re-arranged, but they admitted that they had made no provision for such re-arrangement or for compensation to Messrs. Knowles; that at the Junction of No. 3 with the North Western Railway the requisite level space could be procured by moving the point of junction with No. 1 further back upon that line, and that they could construct what was shown on the plans as a tidal entrance in the form of a lock of sufficient dimensions, by removing the site of the dock 100 feet further back from the river.

The Referees *reported* that it was doubtful if at the Headley crosssing such alteration of level could be made legally or physically; that such crossing was objectionable in an engineering point of view; that the mode of dealing with the Top Pit sidings was defective in an engineering point of view; that the proposed junction of No. 3 was highly objectionable; that the sections as shown on the deposited plans do not show any such level space as mentioned by the promoters; that they could not decide whether or not the promoters had power to alter their point of junction with their own Line No. 1; that the lock as shown was too small, but that probably the additional accommodation could be obtained, and within the limits of deviation, but no plans or sections of the dock, as proposed to be altered, had been deposited; that no provision had been made for station land or buildings, for sidings at the junctions or docks, and that without these provisions the intended works would not be efficient for their proposed object, and that the estimates were insufficient.

26th April, 1865, *p.* 273.

WOLVERHAMPTON AND NORTH STAFFORDSHIRE JUNCTION RAILWAY.

(Mr. Adair.)

Efficiency for Proposed Object — Better Line.

The London and North Western Railway objected that although the line was not defective in a strictly engineering point of view, it was not efficient within the preamble—the construction of a line of public and local advantage; and said that to effect this a junction with their line at Colwich should have been made, and also that instead of passing over their Cannock Mineral Line by a viaduct 92 feet high, a junction should have been made with that line, and a communication thus afforded with Rugeley. Several landowners alleged defective engineering, and that a better line could have been devised.

The Referees *reported* that, the object being a through lead of minerals from Cannock Chase to the Potteries, the works were efficient for the proposed object; and that there was no evidence that the line could have been laid out within the limits of deviation more conveniently to the landowners.

6th April, 1865, *p.* 244.

NORTH KENT RAILWAY.

Objection to Lowness of Level—Possible Accident by Flooding.

It was objected that the line was at too low level, the rails being generally on the level of Trinity high water mark at spring tides in the river Thames, from which the district through which it ran is protected by an embankment, and that it ought to be laid from 4 to 5 feet higher, to prevent its being injured by inundation if this embankment were broken by accident or otherwise, and also that the estimate for a pier (£5000) was insufficient.

The promoters replied that the embankment had existed for a long term of years; that there is not the slightest ground for anticipating any such mischance, and that the pier was intended to be an ordinary timber structure to be used chiefly for landing coals, fish, &c.

The Referees *reported* that there was no engineering objection and that the estimates were sufficient.

14th June, 1865, *p.* 511.

DEAL AND DOVER RAILWAY.
DOVER, DEAL, AND SANDWICH RAILWAY.

(Mr. Hassard.)

Competing Schemes — Report in Favour of One.

These were competing bills for connecting Dover, Deal, and Sandwich.

The gradients and curves on the Deal and Dover were less favourable than those of the Dover, Deal, and Sandwich, but were not seriously objectionable, having regard to the fact that it branched from the London, Chatham and Dover Railway, in a deep valley. It was however shorter, being 9 miles 47 chains as against 15 miles 20 chains, between Dover and Deal, and about the same length between Deal and Sandwich.

The Referees *reported*, that there was no engineering obstacle to either line, and that the Deal and Dover line is better calculated to effect the objects of both bills.

7th March, 1865, *p.* 54.

MIDLAND RAILWAY (BARNSLEY TO KIRKBURTON).

(Mr. Hassard.)

Expensive Works.

It was objected that the works proposed to be executed were costly.

The works were admittedly very heavy and expensive, but were proved to be required, to obtain good gradients, as the line passed through a very difficult country.

The Referees *reported* that there were no engineering objections to the bill.

6th April, 1865, *p.* 241.

ACTON AND TWICKENHAM RAILWAY.

(Mr. Adair.)

Estimates—Sufficiency—Plans deposited in Duplicate for Portion of Line —No Limitation in Estimates.

This bill was objected to on the ground of insufficient estimates.

The insufficiency of the estimates for the whole work was admitted, but it was stated that the portion of the railway from Acton to Brent-

ford was provided for by another bill also before Parliament, and that the plans and sections for this portion were deposited in duplicate; and it was stated that a separate estimate of £80,000 was deposited for that portion of the line, and that the deposited estimate (£120,000) was intended for the remaining works included in this bill only.

The Referees *reported*, that the deposited estimate did not contain any such limitations, but was described as the estimate of the expense of the undertaking according to the deposited plans; and as those plans referred to all the railways described, this estimate was wholly insufficient, but that if the above portion were to be considered as provided for by the other bill, then that the estimate was sufficient.

30*th March*, 1865, *p.* 193.

GLASGOW AND NORTH WESTERN RAILWAY.

(Mr. Adair.)

Estimates—Abandonment of portion of Scheme—Sufficiency.

The deposited estimate was £300,000 for 32 miles of railway. The promoters before appearing before the Referees withdrew 17 m. 52 ch.

The Referees received evidence upon the sufficiency of the deposited estimates for the whole works, and also of the amount to be apportioned to the works still proposed to be constructed, which was £134,290.

The Referees *reported*, that the deposited estimate would have been sufficient, and that the works still proposed could be constructed for the estimated amount of £134,290.

16*th May*, 1865, *p.* 369.

BIRKENHEAD AND LIVERPOOL RAILWAY.

(Mr. Hassard.)

Junction under Circumstances not Objectionable—Estimates not to Provide against Extraordinary Contingency.

It was objected that the Junction of No. 2 Railway (which would have a descending gradient of 1 in 52) with No. 1 (which would be on a descending gradient of 1 in 47), both lines being upon curves of 20 chains radius was bad engineering, and that the estimates were insufficient.

The Referees *reported*, that under the peculiar circumstances, this junction was not objectionable in an engineering point of view, more especially as it was near a station, and the working of it was to be controlled by telegraph.

They also *reported* that though evidence had been given that extraordinary difficulties might be encountered by meeting with faults, and strata charged with water, or other serious obstacles in the execution of the tunnel under the river Mersey, and that it was possible such difficulties might arise, in their opinion the occurrence of them was so uncertain that it would not be just to require the promoters to provide for them in their estimate, and that a sufficient margin had been provided to meet contingencies and any ordinary accidents that might be expected to occur during the execution of the works.

28*th April*, 1865, *p.* 285.

GREENOCK RAILWAY.

(Mr. Adair.)

Gradients—Worked with Care—Estimates Conjectural—Smallness of Margin on Large Works.

It was objected that the gradients ascending from Greenock for upwards of 3 miles, with 693, 320, and 180 yards tunnel, in the first 2 miles, on a gradient of 1 in 70, with one piece of 1 in 200 for 100 yards, then descending for about 5 miles at 1 in 100, were severe ; that there were in the same distance four curves of 15 chains radius, one of which was in the tunnel of 693 yards, and two were reverse curves ; and that the line descends into the harbour, abruptly by a gradient of 1 in 40, on to a level piece of only 160 feet; and that the estimate was insufficient.

In reply it was stated that the steepness of the gradient was inherent in such an undertaking, that some of the curves could be eased in some cases within the limits of deviation, and that the last objection would be met by the connection which the line formed with works in course of construction in the harbour.

The Referees *reported* that the descending traffic to the harbour would require care in its management, but that the traffic might be worked efficiently, and that the steepness of the gradients did not in themselves constitute a valid objection to the undertaking; that the evidence on the estimates was very conflicting, chiefly arising from the conjectural views on either side, as to the nature of the rocks through which the

work was to be carried, the promoters however stating, that they were greatly guided by the cost of the neighbouring Glasgow and Wemyss Railway Line; and that their estimate was vague and unsatisfactory for works of such a heavy character—the estimates for rock cuttings and tunnels being low, as compared with the cost of similar existing works, and the surplus of £5605 being small on works of the cost of £350,000.

29th March, 1865, *p.* 187.

CONNAH'S QUAY RAILWAY AND DOCKS.

(Mr. Hassard.)

Crossing Existing Line on Gradient — Concessions to Opponents — Estimates.

It was objected that Railway No. 1 would cross the Buckley Railway, leading to the present basin at Connah's Quay, by a level crossing at a point where that railway is on a gradient of 1 in 34; but it was proved that the point of crossing is near the termination of the Buckley Railway, where the speed must be slow; and further that Railway No. 1 would supersede that part of the Buckley, except for a small local traffic.

It was also objected, that the construction of a guide wall or embankment in the River Dee, below Connah's Quay, would so contract the entrance of the River Dee, as to render the navigation thereof dangerous. The promoters replied that they were willing to alter the direction of the wall so as to obviate the objections of the petitioners.

The original estimate was £275,000 exclusive of railways; but this included a diversion of the course of the Dee, which was abandoned, the cost of which was estimated at £50,647. In course of the inquiry, works were proposed to be executed in material different from that contemplated by the estimate; and it was admitted that the estimates were not made for the execution of the works according to the sections contained in the deposited plans.

The Referees *reported* that Railway No 1 was not objectionable; that if the guide wall were constructed in such a line as might be agreed on with the petitioners there would be no engineering objections thereto; that the estimates had been so losely prepared that no reliance could be placed upon them.

7th April, 1865, *p.* 258.

WHITEHAVEN AND FURNESS JUNCTION RAILWAY.

(Mr. HASSARD).

Embankment or Viaduct—Power to Board of Trade to Order the Latter — Estimate — Hypothetical Report.

IT was proposed to carry the line across the Duddon Estuary for upwards of 2¾ miles, upon a solid embankment, with only 350 yards of open viaduct. It was alleged that if so constructed the effect of the works would be to silt up the sands above the embankment, diminish the area of the tidal basin, and eventually injure materially the Duddon and Barrow Channels, and that the estimate was insufficient.

The promoters admitted that some silting would take place.

The Referees *reported* that the effect of such silting must be very doubtful; and that the engineering works would be defective unless the Board of Trade were empowered to require that an open viaduct be substituted for so much of the solid embankment as they might think requisite, and that the estimate was sufficient for the works proposed, but that if an open viaduct should be substituted for a large portion of the embankment the sum estimated would be insufficient.

13*th March*, 1865, *p.* 80.

GLASGOW AND SOUTH WESTERN RAILWAY (KILMARNOCK DIRECT).

(Mr. HASSARD.)

Estimates—Compulsion to take whole of Lands—Hypothetical Report.

IT was objected that the estimates were insufficient, inasmuch as the railway passed over the lands of Mr. Dixon, now occupied as the Govan Iron Works, and which, with the land, were valued at £350,000, and it was urged that the Company could be compelled to purchase the entire of Mr. Dixon's interest.

The Referees *reported*, that the works were already divided by a parish road, and that if the Company should be compelled to purchase the whole interest, the estimate would be insufficient, otherwise that it was sufficient.

13*th March*, 1965, *p.* 78.

BUTE DOCKS, CARDIFF (No. 1).

(Mr. HASSARD.)

Estimates—Property in Foreshore—Jurisdiction of Referees.

THE Referees *reported* that the foreshore to be enclosed was assumed to belong to the Marquis of Bute; that there was no sum provided for its acquisition, and that they were not in a position to form an opinion whether the foreshore was or was not the property of the Marquis.

4th May, 1865, *p.* 305.

PICCADILLY AND PARK LANE, NEW ROAD.

(Mr. ADAIR.)

Estimates — Fancy Value — Compensation — Injuriously Affected— Expunging Powers from Bill—Jurisdiction of Referees.

THE main contention between the parties related to the item of compensation.

The petitioners were of two classes. One, the lessees of the houses in Hamilton Place, which would or might, in whole or in part, be taken or interfered with for the purposes of this bill. The other, the lessees of houses in Hamilton Place, or in the part of Piccadilly adjoining thereto, which it was alleged would be injuriously affected and depreciated in value, by the conversion of Hamilton Place from a *cul de sac* into a public thoroughfare.

The objections taken to the works on engineering grounds were confined to two points. The first related to a power contained in the bill of deviating from the level of the intended road as shown upon the sections. This objection was met on the part of the promoters, by declaring their intention to expunge these powers from the bill and to adhere to the levels shown. The second and more material objection was to the alleged deficient width of the roadway which would allow no more than 28 feet 4 inches at the narrowest point of the carriage way.

The second class of petitioners, in order to make good their claims to compensation, would have to bring their respective cases within the operation of the Section 68 of the Lands Clauses Consolidation Act, under the category of lands or houses "injuriously affected" by the construction of the works.

The Referees *reported*, that such cases might involve some important

questions of law, and might possibly come under the adjudication of the legal tribunals, and therefore they desired to refrain from giving any opinion as to the validity or invalidity of such claims, but said that it appeared clear to them that claims of this nature founded upon allegations of contingent and consequential injury, in respect of which the promoters entirely deny their liability, are not such expenses as they (the promoters) are required to provide for in their Parliamentary estimate.

That the properties which came under the other class, as being subject to be taken in whole or in part for the purposes of the works, were Nos. 5, 6, and 7, Hamilton Place; that the case of No. 7 stood on a separate footing, being included within the limits of deviation, but the promoters distinctly stated, that it was not their intention to take or interfere with it in any respect, and that they would consent to be strictly confined to the line of the road as laid down upon their deposited plans, leaving these premises unaltered.

Nos. 5 and 6 have each a garden attached to them. The proposed roadway would cut off a small portion (about 20 superficial feet) from the garden No. 5. It would intersect and take away a large portion of the garden of No. 6. According to the arrangement proposed by the promoters, the space taken from the garden of No. 5 would be compensated by throwing into it a much larger piece of ground (about 1000 superficial feet), and they considered that by so doing, they would indemnify the proprietors and leave no further claim for compensation in respect of No. 5.

The deterioration which would be caused to No. 6 by the loss of garden ground and other damage, was estimated by them at £6600, which their estimate would be just sufficient to cover.

That according to the valuation of the witnesses for the petitioners on the other hand, there would be a deterioration in value of No. 5, amounting to £8000. The evidence on this part of the case was very conflicting; but it appeared to the Referees that the houses in question, from their peculiar character, and the circumstances of their position, possessed a considerable extent of what may be called a "fancy" or speculative value depending on individual taste and sentiment; and, therefore, not capable of being estimated according to the strict standard of market value.

That such being the case, the Referees, feeling the difficulty of arriving at a precise conclusion, and of determining beforehand what the value of the property in question might be, in case the proposed roadway should be constructed, were not prepared to pronounce a positive opinion,

that the estimate of the promoters would prove insufficient for the purposes of the required compensation, and that it appeared to them, under these circumstances, that the question in this respect was not to be regarded as one of mere engineering merits or details, but involved considerations affecting the expediency of the proposed route, and the general merits of the scheme which belong to the Committee on the Bill, and not to the Referees.

30*th March*, 1865, *p.* 196.

GLOSSOP WATER.

(Mr. Hassard.)

Concession to Opponents.

It was proposed to give the petitioners a compensation supply for water to be abstracted of 21 cubic feet a minute.

The petitioners objected that by the proposed situation of the guage, the moiety of the water of the Blackshaw Clough Stream, which ought to be left free for the use of mill owners, would be taken credit for in the 21 cubic feet to be allowed; but the promoters agreed, that the guage should be so placed and arranged, as to ensure their having that moiety in addition to the 21 cubic feet compensation water.

The Referees *reported* that this was sufficient.

24*th March*, 1865, *p.* 157.

CHESTERFIELD WATER AND GAS.

(Mr. Hassard.)

Quality—Jurisdiction to Inquire into Exercised.

The Referees *reported*, that the quality of Water proposed to be supplied was as good as could be procured in that locality.

16*th March*, 1865, *p.* 89.

CHELTENHAM WATER.

(Mr. Dodson.)

Quality—Jurisdiction to Inquire into Declined.

The Referees *reported* that there were no sufficient objections to the proposed source of supply and quality of the water, and that evidence was

tendered by the petitioners to show that preferable supplies might be derived from other sources, but that they did not consider themselves at liberty to enter upon that inquiry.

23rd March, 1865, *p.* 137.

BRISTOL WATER.

(Mr. Dodson.)

Provision for Protection of Water-shed District.

It was objected by the owners, &c., of lands in the neighbourhood of the Chelvey and Midgal Springs, and of the River Kenn, that these springs were the chief feeders of the River Kenn, which waters about 6000 acres of land used for dairy and grazing purposes, and that the abstraction of the water as proposed by the bill would do them a great injury. The promoters did not dispute the prior claim of the inhabitants of the district, and said they did not contemplate taking more than one million of gallons, and admitted that it would be reasonable to secure the district against the abstraction of water, whenever the effect of doing so would be, to reduce the local supply below three millions of gallons per day.

The Referees *reported*, that it would be for the Committee on the bill to consider this.

6th March, 1865, *p.* 49.

BIRMINGHAM WATER.

(Mr. Hassard.)

Water Supply to Opponents Mills—To other places in the Neighbourhood.

The Referees *reported* that the owners of certain mills, situate upon the streams which flow from the pools intended to be appropriated, and upon such pools would be deprived of their water supply, and that the wells in Sutton Coldfield would be deprived of their water; that there were no engineering objections to the works, that they were efficient for their object, that the estimate was sufficient, that the present supply of Birmingham was insufficient, and that the quality of the water proposed to be supplied was good.

17th March, 1865, *p.* 111.

BUTE DOCKS, CARDIFF (No. 2).

(Mr. Hassard.)

Water — Power to Supply Ships — Purity — Conditions.

The promoters sought to supply water to ships, railway companies and persons using the docks as follows:—"A water boat draws water from the feeder flowing from the river Taff into the Bute West Dock, at a point in the said dock a few feet from the entrance of the said feeder into the dock, and the said water having passed through a charcoal filter into the tanks in the said boat, is then supplied to the shipping in the dock."

The Referees *reported* that it was very doubtful whether the water which could not be pure when taken into the boat, was effectually purified by being passed through the filter, and that if the water from the feeder was to be used, it should be drawn by a service pipe from a point near the weir, and beyond the contaminating influence of the West Dock, and that the Taff undoubtedly received the drainage of a large population, but that it was not proved to their satisfaction that it was so impure or unwholesome as to be unfit for domestic use.

5th May, 1865, *p.* 313.

(*ADDENDUM.*)

WREXHAM MOLD AND CONNAH'S QUAY RAILWAY BILL.

(Mr Adair).

Level Crossings—Junctions—Gradients—Interference with Traffic by Bridges.

It was objected to Railways No. 2, No. 3, and No. 4, that they crossed various roads on the level; to No. 1, that it joined the existing Mold Branch with a descending gradient of 1 in 60, where the former is also on a descending gradient of 1 in 55; there was a piece of level of 100 yards at the point of junction, but half of this was on the Mold Branch. It was further objected to No. 2, that it joined No. 3 with a descending gradient of 1 in 40, at a point where the latter was on a curve of 10 chains with a gradient of 1 in 80

The objection to No. 4 was that it joined No. 7 on a curve of 20 chains, and a gradient of 1 in 50, where the latter railway had a curve of 10 chains and a gradient of 18·63.

Railway No. 6 had a gradient for 8 chains of 1 in 25, and to Railways 5 and 6 it was objected, that they would, by passing over certain lines, interfere with the safe and efficient working of the same.

The Referees *reported*, that considering the formation of the country, the nature of the traffic principally being mineral and coals, and the existing number of lines, there were no engineering objections to any of the proposed railways, except No. 6 and 7, which they recommended to be abandoned.

7th April, 1865, *p.* 260.

The following Cases were not considered of sufficient importance to be Digested, but will be found in the Supplements to the Votes, Reports on Private Bills, at the pages opposite each.

INDEX OF CASES IN THE DIGEST.

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